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	Engineering and Design PUBLIC PARTICIPATION IN THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP) FOR FORMERLY USED DEFENSE SITES (FUDS)	
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of Engineers®**

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ENGINEERING AND DESIGN

PUBLIC PARTICIPATION IN THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP) FOR FORMERLY USED DEFENSE SITES (FUDS)

ENGINEER PAMPHLET

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FOREWORD

This pamphlet provides information on public participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) through discussion of procedures for establishing and maintaining community relations programs, Restoration Advisory Boards (RABs), and Administrative Records. The information presented herein complements the information provided in chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites. Use of these procedures is required for all Headquarters, U.S. Army Corps of Engineers (HQUSACE) elements and all U.S. Army Corps of Engineers (USACE) Commands having responsibility for performing hazardous, toxic, and radioactive waste (HTRW) and ordnance and explosives (OE) response actions at FUDS properties. These procedures are recommended for response actions being conducted under the Base Realignment and Closure, Installation Restoration, and Work for Others programs.

Chapters 1 and 5, respectively, briefly introduce and conclude the discussion. Chapter 2 provides an overall survey of community relations programs, with special emphasis being given to the development and revision of Community Relations Plans (CRPs). Two key elements of community relations programs, RABs and Administrative Records, receive detailed consideration in chapters 3 and 4, respectively. The discussion of RABs incorporates substantial information on the Technical Assistance for Public Participation (TAPP) program. Appendices to the pamphlet provide helpful support materials, ranging from sample fact sheets to explanation of the organizing principles for Administrative Records.

The term "community relations" is used throughout this pamphlet in the same sense in which the term is understood in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, the Superfund Amendment and Reauthorization Act (SARA) of 1986, and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

FOR THE COMMANDER:



RUSSELL L. FUHRMAN
Major General, USA
Chief of Staff

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CHAPTER 1 INTRODUCTION

1-1. Purpose. This pamphlet provides information on public participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) through discussion of procedures for the establishment and maintenance of community relations programs, Restoration Advisory Boards (RABs), and Administrative Records. The information presented herein complements the information provided in chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites.

1-2. Applicability. This pamphlet applies to all Headquarters, U.S. Army Corps of Engineers (HQUSACE) elements and all U.S. Army Corps of Engineers (USACE) Commands having responsibility for performing hazardous, toxic, and radioactive waste (HTRW) and ordnance and explosives (OE) response actions at FUDS properties. Although specifically written as guidance for managing the public participation process in relation to the USACE FUDS program, the pamphlet may also be used as a guide when USACE has responsibility to comply with the public participation process in relation to the Installation Restoration, Base Realignment and Closure, and Work for Others programs.

1-3. Distribution Restriction Statement. Approved for public release; distribution is unlimited.

1-4. References. References cited in this document are listed below:

- a. Competition in Contracting Act, 10 USC 2304.
- b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, PL 96-510, 94 Stat. 2767, 42 USC 9601.
- c. Defense Environmental Restoration Program, 10 USC 2701.
- d. Federal Advisory Committee Act, PL 92-463 of 1972, as amended.
- e. National Defense Authorization Act for Fiscal Year 1996, PL 104-112.
- f. Privacy Act, 5 USC, 552a of 1974, as amended.
- g. Superfund Amendment and Reauthorization Act of 1986, PL 99-499, 100 Stat. 1613, amending CERCLA, 42 USC 9601 et. seq., and miscellaneous other sections.

h. Final Rule on Technical Assistance for Public Participation in Defense Environmental Restoration Activities, Federal Register, Vol. 63, No. 21, February 2, 1998.

i. National Oil and Hazardous Substances Pollution Contingency Plan, Title 40, CFR, Part 300, U.S. Environmental Protection Agency, Washington, D.C.

j. Simplified Acquisition Procedures, Title 48, CFR, Part 13.

k. Management Guidance for the Defense Environmental Restoration Program, Office of the Deputy Under Secretary of Defense (Environmental Security), March 1998. This document can be obtained from the Office of the Deputy Under Secretary of Defense, 3400 Defense Pentagon, Washington, D.C. 20301-3400.

l. AR 25-400-2, The Modern Army Recordkeeping System.

m. AR 200-1, Environmental Protection and Enhancement.

n. AR 380-5, Department of the Army Information Security Program.

o. Program Manual, Defense Environmental Restoration Program for Formerly Used Defense Sites, U.S. Army Corps of Engineers, 1996. This document can be obtained from Headquarters, U.S. Army Corps of Engineers, Directorate of Military Programs, Environmental Restoration Division, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000.

p. Technical Assistance for Public Participation Policy Implementation Guidance and Restoration Advisory Board Update, U.S. Army Corps of Engineers, 1998. This document can be obtained from Headquarters, U.S. Army Corps of Engineers, Directorate of Military Programs, Environmental Restoration Division, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000.

q. EPA Directive 9230.0-03C, Community Relations in Superfund: A Handbook, January 1992. This document can be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

r. OMB Circular A-122, Cost Principles for Non-Profit Organizations. This document can be obtained from EOP Publications, 725 17th NW, NEOB, Washington, D.C. 20503.

s. Robert's Rules of Order, Newly Revised Edition of 1970. This document is commercially available.

1-5. Explanation of Abbreviations. Abbreviations used in this document are explained in the glossary.

1-6. Background.

a. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) is the law, passed by Congress in 1980, which authorized the Government to respond directly to releases, or threatened releases, of hazardous substances that may endanger public health, welfare, or the environment. In 1986, Congress passed amendments to CERCLA, entitled Superfund Amendment and Reauthorization Act (SARA). SARA authorized DERP under 10 United States Code (USC) 2701 et. seq. The FUDS component of DERP is managed and executed by USACE under authority delegated by the Department of Defense (DOD) through the Department of the Army (DA). SARA called for increased public participation during all phases of response actions and required the establishment of information repositories and Administrative Records for each FUDS project. Under DERP, DOD issued policy for establishing RABs to review and comment on environmental restoration activities being conducted at military installations and FUDS properties. In 1996, Congress authorized DOD to obtain technical assistance to help RAB members and Technical Review Committees (TRCs) better understand the scientific and engineering issues underlying environmental restoration activities. In response to this authority, DOD has finalized the Technical Assistance for Public Participation (TAPP) program, thereby providing technical assistance to community members of RABs.

b. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) is the Environmental Protection Agency (EPA) regulation which implemented CERCLA. The NCP provides detailed requirements for community involvement in all phases of environmental response actions. Further, the NCP established procedures and requirements for establishing and maintaining Administrative Records.

c. The statutory and regulatory authority and policy guidance indicated in paragraphs a and b above are the basis for the establishment and maintenance of community relations programs, RABs, and Administrative Records as discussed in chapters 2, 3, and 4, respectively, of this pamphlet.

CHAPTER 2 ESTABLISHING AND MAINTAINING COMMUNITY RELATIONS PROGRAMS

2-1. Scope.

a. This chapter presents the procedures for establishing and maintaining community relations programs at FUDS properties for authorized FUDS HTRW and OE projects. Community relations activities are discussed in relation to each phase of remedial and removal response actions. Community Relations Plans (CRPs) are given special consideration due to their central importance in any community relations program.*

b. While there can be no set formula for a community relations program that would be applicable to every FUDS HTRW or OE project because of the uniqueness of each FUDS property and community, there are some community relations activities that must be performed, at a minimum. Beyond these minimum requirements, community relations programs must be tailored to the distinctive needs of each FUDS property and community.

2-2. Stakeholders in the Community Relations Program.

- a. Residents of areas contaminated with HTRW or OE.
- b. Users of a FUDS property contaminated with HTRW or OE.
- c. Business persons affected by an HTRW- or OE-contaminated FUDS property.
- d. Officials whose political or technical responsibilities, within differing jurisdictions, include an HTRW- or OE-contaminated FUDS property.
- e. Native American tribal governments dealing with HTRW or OE issues.
- f. State and Federal regulators.
- g. USACE personnel and contractors.

*"Community Relations Plan (CRP)" is an EPA term. The equivalent Army term for such plans is "Public Involvement Response Plan (PIRP)." Although the EPA terminology is consistently used throughout this pamphlet, the interchangeability of CRP and PIRP is here noted to prevent confusion between this pamphlet and other Army publications.

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h. Other persons whose interests include the safety and environmental issues associated with an HTRW- or OE-contaminated FUDS property.

2-3. Goals of the Community Relations Program.

a. Ensure that stakeholders understand that personal and property safety is the paramount concern during HTRW and OE response actions.

b. Serve the community's information needs by keeping local residents, officials, and other stakeholders informed in a timely manner of HTRW/OE response actions.

c. Provide local residents, officials, and other stakeholders an opportunity to review and comment on studies being conducted and on suggested remedial or removal response alternatives and decisions.

d. Foster and maintain a climate of understanding and trust between stakeholders and USACE.

2-4. Responsibilities.

a. Office of Public Affairs, HQUSACE.

(1) Coordinates or approves media responses or visits concerning HTRW and OE response actions that have national significance.

(2) Coordinates public affairs issues with appropriate elements, to include the U.S. Army Environmental Center (USAEC); major Army and other Services commands; Office of Public Affairs, Headquarters, DA; and Congressional delegations, regarding HTRW and OE response actions, as needed.

b. Public Affairs Office (PAO), U.S. Army Engineering and Support Center, Huntsville (USAESCH).

(1) Provides public affairs guidance to USACE major subordinate command (MSC) and geographic district command PAOs concerning OE response actions, as requested.

(2) Prepares, or provides input to, programmatic plans, fact sheets, and news releases concerning OE issues, response actions, and policy, as requested.

(3) Provides public affairs support in the field for OE site inspections (SIs) and removal response actions to USACE MSCs and district commands at their request and as appropriate resources permit.

(4) Coordinates with lead district PAO any news or public queries and visit requests concerning the FUDS OE project.

c. OE Mandatory Center of Expertise (MCX), USAESCH. The OE MCX provides general support to OE Design Centers and removal districts. To accomplish this, the OE MCX has dedicated personnel available for telephonic or written inquiries from OE Design Centers, districts, MSCs, or HQUSACE regarding regulatory and OE safety and technical information for FUDS OE projects. This includes having personnel available for timely response to specific HQUSACE-directed OE-related assignments. The OE MCX also provides OE technical support to any USACE element conducting construction and/or HTRW operations in areas where OE is suspected or known to exist. As needed, the OE MCX supports the district's execution of its responsibility for public affairs and interface support with state and local regulatory agencies and the community.

d. OE Design Centers. OE Design Centers support the geographic districts on all FUDS OE projects. The Centers will designate a point of contact (POC) for each FUDS OE project. The POC will coordinate all FUDS project activities with the district project manager (PM), including the following:

- (1) Provides FUDS project updates to USAESCH PAO.
- (2) Provides technical support to briefings and public meetings.
- (3) Acts as representative of USAESCH at RABs and other public involvement activities.

e. PAO, U.S. Army Engineer District, Omaha.

(1) Provides public affairs guidance to USACE MSC and geographic district command PAOs concerning HTRW response actions, as requested.

(2) Prepares, or provides input to, programmatic plans, fact sheets, and news releases concerning HTRW issues, response actions, and policy, as requested.

(3) Provides public affairs support in the field for HTRW SIs and remedial response actions to USACE MSCs and district commands at their request and as appropriate resources permit.

(4) Coordinates with lead district PAO any news or public queries and visit requests concerning the FUDS HTRW project.

f. HTRW MCX, Omaha. The HTRW MCX assigns technical specialists for numerous HTRW-related topics. USACE MSCs and districts may access various technical specialists and other services through designated technical liaison managers (TLMs). Specific TLMs are

assigned for each USACE MSC/district. Each USACE MSC/district should consult with their assigned TLM for current USACE policy guidance on HTRW MCX technical review of selected HTRW documents (including Inventory Project Reports (INPRs)).

g. Military HTRW Design District. The military HTRW design district PM performs the following activities:

(1) Supports the geographic district PM to coordinate community relations activities on FUDS HTRW projects within the geographic district boundary and supports the Potentially Responsible Party (PRP) district to coordinate community relations activities on PRP/Third Party Site (TPS) projects within the geographic district boundary.

(2) Supports the geographic district PM in the development of appropriate CRPs for FUDS HTRW projects.

h. PAO, Geographic District, USACE.

(1) Serves as the primary POC for dissemination of information to the public and the media with respect to FUDS projects.

(2) Keeps all affected USACE and HQUSACE elements informed of anticipated or ongoing activity at FUDS projects that could result in public inquiry.

(3) Provides public affairs guidance and expertise to support the community relations program for all phases of a FUDS HTRW or OE project.

(4) Produces public statements and media releases for use at major milestone achievements during work progress at the FUDS project.

(5) Refers all information of national significance to the PAO, HQUSACE, for release through proper channels.

(6) Serves as the spokesperson and community POC who responds to news media and public queries by using statements coordinated with the district PM, statements coordinated with the USAESCH PAO for FUDS OE projects or the PAO at the military HTRW design district for FUDS HTRW projects, or statements from previously approved documents, as appropriate.

(7) Plans and coordinates with the district PM, the military HTRW design district PAO, and the USAESCH PAO, as appropriate, for support of public briefings, speeches, tours, open houses, news media requests, and visits pertaining to FUDS HTRW and OE projects.

(8) Provides the district PM, the military HTRW design district PAO, and the USAESCH PAO, as appropriate, with copies of all released information and copies of pertinent print and electronic news clippings.

(9) When the district PM establishes a RAB, modifies the CRP to incorporate the RAB concept and assists the district PM in the implementation of RAB policies and procedures.

i. PM, USACE District. The district PM, in coordination with the geographic district PAO, is responsible for all community relations activities at FUDS projects when such responsibility is delegated by the relevant MSC. The PM will perform the following activities:

(1) Programs funding for the community relations program.

(2) Manages and maintains information repositories.

(3) Provides FUDS project updates and information to the geographic district PAO.

(4) Accomplishes all coordination requirements to support the community relations program. Contractors may be used to develop plans, arrange and advertise meetings, facilitate RABs, prepare news releases and procedures for approval, and conduct interviews. Contractors may not act as spokespersons for USACE.

(5) Establishes and maintains the Administrative Record for each FUDS HTRW and OE project within his or her geographic area of responsibility.

(6) Prepares CRPs when applicable. (See paragraph 2-7a for statement as to when CRPs are required.)

(7) Establishes a RAB when appropriate, then serves as the FUDS Co-Chair, overseeing all operations of the RAB.

(8) Coordinates all activities involving PRP issues with the PRP district (especially the Office of Counsel).

(9) When the Remedial Design/Remedial Action (RD/RA) for PRP/TPS projects on FUDS properties is to be executed by USACE, obtains support, as appropriate, from the PRP district for community relations activities.

(10) Prepares a responsiveness summary of community relations activities following completion of various phases of the removal or remedial response actions to evaluate their successes and shortcomings and develop a "lessons learned" document.

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- (11) Develops and manages community relations.
- (12) Develops and manages public-involvement and public-affairs plans, initiatives, and activities during removal or remedial response actions within geographic boundaries.
- (13) Administers community relations contracts.
- (14) Promotes the USACE FUDS Program regionally and locally.
- (15) Develops memorandums of agreement in coordination with the MSC, the MCXs, and the military HTRW design district.
- (16) Formally releases to the public the preliminary assessment of eligibility (PAE), site inspection (SI), remedial investigation (RI), and engineering evaluation/cost analysis (EE/CA) reports after regulatory review.
- (17) When the draft feasibility study (FS) report for National Priorities List (NPL) FUDS projects is published announcing the Army's preferred alternative plan for remedial response action, issues the report for a 45-day public comment period.
- (18) Makes all final technical reports relating to FUDS projects available to the public.
- (19) Ensures that a CRP has been developed for all FUDS properties at the conclusion of the SI phase. For all FUDS properties that have been included on, or proposed for inclusion on, the NPL, ensures that the CRP is updated before fieldwork begins.
- (20) Ensures that implementation, review, and updating of CRPs are in accordance with (IAW) AR 200-1 and the NCP.
- (21) Issues, in final draft form, the FS report, Proposed Plan, and record of decision (ROD) for NPL FUDS projects for public comment after appropriate USACE review.

j. PRP District. The PRP district supports the geographic district PM to coordinate the necessary community relations activities during the PRP planning and negotiation phase for FUDS properties involving PRP/TPS projects.

2-5. Community Relations Activities for Remedial (HTRW) Response Actions (NCP, Section 300.430(c)).* (See table 2-1.)

* The discussion of community relations activities in paragraphs 2-5 and 2-6 is derived, with modifications, from chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites, U.S. Army Corps of Engineers.

a. PAE.

(1) Prior to the beginning of this phase, a news release should be issued to explain the FUDS component of DERP, announce the start of the investigation, and request assistance from the on- and off-base community on FUDS property background information.

(2) Additional community relations activities should be kept to a minimum during this phase to avoid creating expectations of restoration activity at the FUDS property, although it is important to assess public attitudes toward potential contamination. Local and state officials should be contacted prior to and during the assessment to apprise them of the situation and to gather background information on the community. Officials and the news media should be contacted at the conclusion of the assessment to explain the results and any future response actions that may be conducted.

b. SI.

(1) Because this phase involves visible activity at the FUDS property, more community relations activities are desirable than during the PAE. State and local officials, as well as the heads of community organizations, citizens who have indicated concern about the FUDS project, and people who live close to the FUDS property, should be notified before the SI begins. This advance notice can prevent alarm and allows for an explanation of the SI. A news release explaining the results of the SI and potential response actions should follow the SI.

(2) To ensure maximum public participation in the environmental restoration decision-making process, an initial CRP must be prepared to provide a brief history, discuss SI findings, and indicate potential response actions. The CRP will be systematically revised, as appropriate, throughout the environmental restoration process and need not, therefore, be overly elaborate at the SI phase. It must, however, be sufficiently detailed at the SI phase to ensure informed public participation in the environmental restoration decision-making process, especially so with respect to no DOD action indicated (NDAI) determinations.

(3) An information repository, required by NCP 300.805(a), with an Administrative Record file must also be established at a location easily accessible to the public. The public must be informed about the location of the information repository. The repository should contain documents providing all the information a citizen needs to understand the basis for past or proposed decisions. If the FUDS project will proceed beyond the SI phase, the repository must be maintained throughout the response action.

c. Pre-Remedial Investigation.

Table 2-1. Community Relations Activities for Remedial Responses

Community Relations Activities	Remedial Response Phases								
	PAE	SI	Pre-Remedial Investigation	RI	FS	Proposed Plan	Pre-Record of Decision	ROD	Remedial Design, Remedial Action, and O&M
Contact State/Local Officials	D	R		R	R			D	D
News Release	D	D		D	D	D			D
Workshops		D		D	D				
Community Interviews			R	R					
Community Relations Plan		R	R	R	R	R	R	R	R
Determine need for Restoration Advisory Board				R					
Initiate and Maintain the Admin Record	R	R	R	R	R	R	R	R	D
Establish Information Repository and Inform Public		R	R	R	R	R	R	R	
Publicize Technical Assistance Grants (1) and Other Technical Assistance Opportunities			R						
Fact Sheets	D	D	D	D	D	R			R
Public Notice				R		R		R	
Public Meeting (2)						R			
Public Comment Period (30-60 days)						R			
Responsiveness Summary							R		
Revise Proposed Plan (3)							R		
Second Comment Period (30-60 days) (3)							R		
Revise Community Relations Plan			R	R	R	R	R	R	R

(1) For National Priorities List (NPL) FUDS properties only. If the FUDS property is listed on the NPL after the RI begins, then Technical Assistance Grants are publicized at that time.

(2) An opportunity for a public meeting is required. If such a meeting is held, then a transcript must be kept and made available to the public.

(3) Revise Proposed Plan and provide second comment period if significant changes are made regarding proposed FUDS property activities prior to the ROD and those changes could not have been reasonably anticipated by the public.

PAE = Preliminary Assessment of Eligibility

SI = Site Inspection

RI = Remedial Investigation

FS = Feasibility Study

ROD = Record of Decision

O&M = Operation and

D = Desirable

R = Required

Maintenance

(1) If the FUDS project will proceed to the RI phase, the geographic district PAO should identify community leaders, officials, and concerned citizens for community interviews and should develop a mailing list of concerned citizens. A public affairs officer should also be designated to handle public inquiries. The community interviews should be conducted to learn what the public concerns are and how the public wants to be involved in the FUDS property response action.

(2) Once the interviews are concluded, the initial CRP must be revised to identify and briefly describe the restoration process and specific FUDS projects and to describe community relations activities planned during the FUDS property response action. Relevant work plans, copies of regulations, copies of press releases and fact sheets, and other such documents should be added to the information repository at this time. If the FUDS property has been listed on the NPL, the public must also be informed of the availability of EPA Technical Assistance Grants (TAGs), which are awarded and managed by EPA regional offices. If the FUDS property has not been listed on the NPL, the public should be made aware of the availability of Technical Outreach Services to Communities (TOSC) support.

d. RI.

(1) Community relations activities during the RI are conducted for four reasons: first, to gain an understanding of the community's perspective on the FUDS property cleanup; second, to inform the public about FUDS project activities, progress, and the results of the RI; third, to provide the public with enough background information to understand the RI; and fourth, to build a basis for trust and credibility within the community.

(2) The community relations requirements during the RI are to update the Administrative Record file by adding appropriate documents, to announce the availability of the Administrative Record file by public notice, and to determine whether or not there is a need to establish a RAB at the FUDS property (see paragraph 3-1b for information on when establishment of a RAB is required). The Administrative Record, required by CERCLA 113(k)(1), includes documents that USACE considered or relied upon during selection of the remedial response action and documents that demonstrate the public's opportunity for participation in and comment on the selection. The Record is established and maintained by the environmental planning staff, but the PAO should keep state and local officials, community leaders, and concerned citizens apprised of planned FUDS project activities. The PAO should also review FUDS documents and consult with technical staff to be able to answer public inquiries and present technical information in an understandable manner. Workshops, FUDS property tours, fact sheets, news releases, and other activities are also desirable to keep the public informed and ensure that community activities are being handled openly and honestly.

e. FS and Proposed Plan; Pre-Record of Decision.

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(1) During the FS, the PAO should continue community relations activities begun during the RI. Once the FS has been completed, the Proposed Plan needs to be prepared. The Proposed Plan document summarizes the remedial response alternatives proposed for a FUDS project and specifies the preferred cleanup method; the Proposed Plan can be prepared in fact-sheet format or as a document similar to, but shorter and less conclusive than, the draft ROD. As required by CERCLA 117(d), the PAO then needs to publish, in the local newspapers for non-NPL FUDS properties and in the Federal Register (and local newspapers after Federal Register notification) for NPL FUDS properties, a public notice which announces the availability of the RI/FS report and Proposed Plan, briefly summarizes the Proposed Plan, and announces the start of a 30-day public comment period, which can be extended by at least 30 days upon timely request from the public. After the Proposed Plan is publicly released, the public has an opportunity to request a public meeting on the RI/FS and Proposed Plan. USACE may also opt to hold a public meeting without such a request from the public. If a public meeting is held, it must be transcribed, and the transcript must be placed in the Administrative Record and/or information repository. The PAO is responsible for organizing the public meeting, collecting written or oral comments received during the comment period, and conducting any additional community relations activities, such as FUDS property tours, workshops, exhibits, news releases, and fact sheets. After the comment period, the PAO should assist the technical staff in preparing a Responsiveness Summary that addresses significant comments received from the public.

(2) If any significant changes are made regarding proposed FUDS project activities prior to preparation of the ROD and those changes could not have been reasonably anticipated by the public, the Proposed Plan must be revised, and a second 30-day public comment period is necessary. The ROD document identifies the selected remedy. If the changes could have been reasonably anticipated by the public, then the changes can be discussed in the ROD, and the Proposed Plan does not need revision. Before the ROD is signed, the PAO should notify key officials and community members. After the ROD is signed, the Administrative Record must be updated to include materials that support issuance of the ROD, and the PAO needs to announce its availability to the public by public notice. Prior to the RD phase, the PAO must revise the CRP to reflect any new community concerns.

f. RD/RA Plan. When the RD is finished and the RA plan is completed, the PAO should notify key officials and community members. A fact sheet explaining the chosen cleanup process must be prepared, and the RA plan must be made available to the public in the information repository. A public briefing should be held prior to the start of the RA. The PAO, in coordination with technical staff, needs to prepare a response for any significant comments made about the RA plan.

g. RA and Operation and Maintenance. During these phases, the PAO should prepare fact sheets and news releases about FUDS project activities. Public meetings and FUDS property tours are desirable to help the public understand and feel more comfortable about response actions taken at the FUDS property.

2-6. Community Relations Activities for Removal (HTRW/OE) Response Actions (NCP, Section 300.415(m)). (See table 2-2.)

a. Response Actions With a Planning Period of Less Than 6 Months. Within 60 days of the start of an onsite removal response action, a CRP must be prepared, an information repository established at a location easily accessible to the public, and a public notice published in a major local newspaper of general circulation to announce the availability of an Administrative Record file and the start of a 30-day public comment period. The Administrative Record file, which will be established in the information repository, will contain FUDS project evaluation documentation. Written responses should also be prepared for significant public comments received during the comment period. The comments and responses will become part of the decision document for the FUDS project and will be maintained in the Administrative Record file at the information repository. For instances where a time-critical FUDS project is identified at a FUDS property where a CRP already exists, the existing CRP will be revised to incorporate appropriate information concerning the time-critical response.

b. Response Actions Expected to Extend Beyond 120 Days. At the conclusion of the SI phase, an initial CRP must be developed. An information repository with an Administrative Record file must also be established at a location easily accessible to the public. The public must be informed of the establishment of the information repository. Before the end of the 120-day period, community interviews must be conducted with local officials, community residents, public interest groups, and other interested parties to solicit their concerns and information needs. Using the information gathered during the interviews, a revised CRP, the size and complexity of which will depend on the size and complexity of the cleanup response action, must be completed. (See paragraph 2-6c for applicable information on public notification of Administrative Record file availability, on public notification concerning the EE/CA, on the EE/CA comment period Responsiveness Summary, and on the FUDS project Action Memorandum.)

c. Response Actions With a Planning Period of At Least 6 Months. At the conclusion of the SI phase, an initial CRP must be developed and the information repository and Administrative Record file established. The public must be informed of the establishment of the information repository. Prior to the initiation of the EE/CA, community interviews must be conducted, the initial CRP revised, and a determination made as to whether or not there is a need to establish a RAB at the FUDS property (see paragraph 3-1b for information on when the establishment of a RAB is required). No later than the signing of the approval memorandum which authorizes the EE/CA to be conducted, a public notice must be issued to inform the public of Administrative Record file availability and to announce the availability of the EE/CA, describe the EE/CA, and start a 30-day public comment period on the EE/CA, which can be extended by at least 15 days upon timely request from the public. The public notice should also state that it is intended to satisfy the notification requirements of CERCLA. After the comment period, written responses

Table 2-2. Community Relations Activities for Removal Responses

Community Relations Activities	Removal Response Phases								
	PAE	SI	EE/CA Approval Memo	EE/CA	Action Memo	RD	RA	O&M	Closeout
Contact State/Local Officials	D	R	R	R	R	D	D	D	D
News Release	D	D	D	R	R	D	R		D
Workshops		D		D		D	D	D	
Community Interviews	D	R		R				D	
Community Relations Plan (CRP)		R	R	R	R	R	R	R	
Establish Information Repository and Inform Public	R	R	R	R	R	D	D	D	D
Initiate and Maintain the Administrative Record	R	R	R	R	R	D	D	D	D
Determine need for Restoration Advisory Board				R					
Publicize Technical Assistance Opportunities				R					
Fact Sheets	D	D	D	D	D	D	D		R
Public Notice				R	R				
Public Meeting				R			D	D	
Public Comment (30-60 days)				R					
Responsiveness Summary				R			R		
Revise CRP				R	R	R	R	R	

PAE = Preliminary Assessment of Eligibility

SI = Site Inspection

EE/CA = Engineering Evaluation/Cost Analysis

RD = Removal Design

RA = Removal Action

O&M = Operation and Maintenance

D = Desirable

R = Required

must be prepared for significant comments received from the public. The Action Memorandum that serves as the FUDS project's decision document, which includes this Responsiveness Summary, must be made available to the public in the information repository.

2-7. Community Relations Plans (CRPs).*

a. The NCP requires that a CRP be prepared for all remedial response actions and for all removal response actions extending beyond 120 days. USACE policy is that in order to ensure maximum public participation in the environmental restoration decision-making process, a CRP will be prepared for all FUDS projects at the conclusion of the SI phase. The initial CRP will provide a brief history, discuss SI findings, and indicate potential response actions. Since the CRP will be revised, as appropriate, throughout the environmental restoration process, it need not be elaborate at this time. It must, however, be sufficiently detailed to ensure informed public participation in the environmental restoration decision-making process. This is especially important with respect to NDAI determinations. For remedial response actions, the initial CRP must be revised before the RI/FS begins and should outline community relations activities to be held during the RI/FS. For removal response actions, the initial CRP must be revised before the EE/CA is initiated and should outline community relations activities to be held during the EE/CA. The revised plan also should identify anticipated activities that are required during remedial or removal design and subsequent response actions (such as the preparation of a fact sheet after the engineering design is complete). In order to identify additional activities during remedial or removal design and construction, the revised plan should be updated before remedial or removal design begins.

b. CRPs (other than the initial, cursory plan prepared at the conclusion of the SI phase) document concerns identified during community interviews and provide a detailed description of the community relations activities planned on the basis of these interviews. CRPs should focus on community relations techniques and approaches specific to the FUDS property in question, not generic program goals.

c. The best CRPs generally are those that convey a working knowledge of the local community and its concerns, while providing a framework for addressing community concerns during the remedial or removal response. The community relations program should include sufficient flexibility to adjust to changes either in community attitudes or in the schedule for technical activities at a FUDS property. The PM should revise and update the document as

* The discussion of CRPs in paragraphs 2-7 and 2-8 is derived from chapter 3 and appendix A, respectively, of EPA Directive 9230.0-03C, Community Relations in Superfund: A Handbook, 1992. The Handbook discussion has been augmented to include removal response actions.

changes occur at the FUDS property. Periodic updates ensure an accurate and timely document, promote additional opportunities for interaction with the public, and strengthen the relationship between the district and the local community.

d. While the plan format can be varied to reflect the unique characteristics of a specific program, the recommended format for a fully developed CRP consists of five sections and two appendices:

- (1) Section 1: Overview of CRP.
- (2) Section 2: Capsule FUDS Property Description.
- (3) Section 3: Community Background.
- (4) Section 4: Highlights of the Community Relations Program.
- (5) Section 5: Community Relations Activities and Timing.

(6) Appendix A: Contact List of Key Community Leaders and Interested Parties. (Note: names and addresses of private citizens should not be included in the copy of the CRP that is made available to the public.)

- (7) Appendix B: Suggested Locations for Meetings and Information Repositories.

These sections and appendices are described in greater detail below.

e. Section 1. Overview of CRP. This section outlines the purpose of the CRP and the distinctive or central features of the community relations effort for the FUDS property. It also should include special characteristics of the community and the FUDS property. This overview, which should be only a few paragraphs in length, should not merely repeat the general goals of community relations in Superfund. Rather, it should identify objectives specific to community relations during this remedial or removal response and special circumstances the plan will address.

f. Section 2. Capsule FUDS Property Description. This brief section should describe the basic historical, geographical, and technical details so that readers unfamiliar with the FUDS property will understand why the remedial or removal response action is being executed. Specific topics include:

- (1) FUDS property location and relationship to homes, schools, playgrounds, businesses, lakes, streams, and parks.
- (2) History of FUDS property use and ownership.

- (3) Type of hazardous substances at the FUDS property, if known.
- (4) Nature of threat and potential threat to public health, welfare, and the environment, if known.
- (5) History of inspections and studies conducted at the FUDS property.
- (6) Lead agency responsible for the FUDS property.

Maps showing the location of the FUDS property within the State and locality also are helpful.

g. Section 3. Community Background. This section is usually divided into three parts:

- (1) Community Profile, which describes the community and analyzes key local issues and interests.
- (2) Chronology of Community Involvement, which should identify how the community has reacted to the FUDS property in the past. Specifically, the following questions need to be addressed in this section. What actions, if any, has the public taken to resolve problems at the FUDS property? How did the public view previous response efforts at the FUDS property? How does the public perceive various levels of the Government's involvement at the FUDS property? Are PRPs associated with the FUDS property or past operations at the FUDS property?
- (3) Key Community Concerns, which should analyze the major public concerns regarding the FUDS property, as well as the remedial or removal response proposed to deal with those concerns. Throughout the Community Background section, but especially in the analysis of community concerns, the focus should be on community perceptions of the events and problems at the FUDS property, not on the technical history of the FUDS property. This section, which varies from three to seven pages, will contain much of the information obtained during the community interviews.

h. Section 4. Highlights of the Community Relations Program. This section summarizes the design for the community relations program at the FUDS property. The approaches described should be specific to the FUDS property and follow directly and logically from the preceding discussion of the community, including PRPs, and the analysis of the problems posed by the FUDS property. Topics covered in this section, which is usually two to four pages, include:

- (1) Methods of communication, or activities and techniques, specific to the FUDS property.
- (2) Resources available for the community relations program (e.g., local organizations, meeting places).

(3) Key individuals or organizations that are expected to play a role in community relations activities.

(4) Areas of special sensitivity that must be considered during community relations and remedial or removal response actions.

i. Section 5. Community Relations Activities and Timing. This section describes the types of community relations activities, both required and recommended, to be conducted at the FUDS property and specifies when they should be conducted. This section also should identify additional activities that might be appropriate at the FUDS property if concern increases or shifts, or if PRPs are present and the FUDS property is classified as a Federal enforcement FUDS property. This section could include a matrix that relates the timing of community relations activities to technical and enforcement milestones for the FUDS property. Another useful planning tool, particularly where several agencies are involved, is a budget and staffing plan.

j. Appendix A: Contact List of Key Community Leaders and Interested Parties. The names, addresses, and telephone numbers of all officials and group representatives contacted during the community interviews, along with others who will receive information about developments at the FUDS property, are listed in this section. However, the names, addresses, and telephone numbers of private citizens contacted for interviews should not be included as a part of the plan that is made public. These names, addresses, and telephone numbers, however, should be included in the mailing list compiled for the FUDS property. The contacts identified in appendix A should include:

- (1) Federal elected officials.
- (2) State elected officials.
- (3) Local elected officials (e.g., county and city or township).
- (4) PRPs.
- (5) Environmental groups and citizens' groups.
- (6) EPA officials.
- (7) State environmental and health department officials.
- (8) Local health department, safety officials (e.g., fire, police), and township officials.
- (9) Press contacts (e.g., television, radio, newspapers).

Appendix A may also include a list of local businesses that are willing to post notices or distribute flyers, as well as a list of local court reporters who can be contacted to document public meetings.

k. Appendix B: Suggested Locations of Meetings and Information Repositories. The CRP should identify locations for the information repository and for public meetings. Facilities recommended for holding public meetings include school gyms, town halls, and library meeting rooms. The locations selected for public meetings should be accessible to handicapped individuals. Typical locations of information repositories include local libraries, town or city halls, and county offices. Hours that the information repositories will be accessible should be included in this section, along with the names of contacts for getting into the buildings. The size or capacity of meeting rooms is a particularly helpful detail for later planning.

2-8. Revision of CRPs.

a. Description. All or parts of the fully developed CRP for a FUDS property should be revised to incorporate new information, reflect changes in community concern, or prepare for community activities during remedial or removal design and subsequent response actions.

b. Purpose. The CRP is revised to ensure that it remains sensitive to citizens' concerns through all phases of the remedial or removal response action and to evaluate which community relations activities were effective and which were not.

c. Technique. A CRP initially discusses the findings of the SI and potential response actions. If the FUDS project will proceed beyond the SI phase, the CRP is revised to outline the community relations program techniques for the RI/FS or the EE/CA phase of the response action. Once the ROD or Action Memorandum for a FUDS project is completed, it is appropriate to re-assess the nature and extent of community concerns and develop a new schedule of community relations activities for the design and construction phases of the response action. Revisions needed will vary from FUDS project to FUDS project.

d. When to Revise. CRPs should be revised prior to initiation of the RI/FS or the EE/CA (see paragraph 2-7a) and, again, before the remedial or removal design to describe any community relations activities during remedial or removal design and subsequent response action that are not already addressed in the CRP. If, after the plan has been prepared, community concerns change focus or increase in intensity, the plan should be revised accordingly.

e. Accompanying Activities. The responsiveness summary will provide some information to assess the nature and extent of citizens' concerns after the RI/FS or EE/CA is complete. Additional community interviews can provide further information for revising the CRP.

f. Benefits. Revising the CRP will help to ensure that the geographic district continues to respond to citizens' concerns throughout the remedial or removal response action.

g. Limitations. The PM should make certain that resources are available to implement all activities identified in the revised plan.

2-9. Communication Media and Techniques. There are many community relations activities available for use at FUDS HTRW/OE projects, as indicated in paragraphs 2-5 through 2-7. Not all available activities are appropriate for use at every FUDS project. Following is a brief discussion of communication media and techniques typically employed at FUDS HTRW/OE projects.

a. Community Interviews. To identify the attitudes and concerns of area residents concerning activities at the FUDS HTRW or OE project during the study phase (not during time-critical removal actions (TCRAs)), community interviews should be conducted by representatives of USACE and contractors, where appropriate, with members of the community relations program audiences. Appendix A provides a sample list of questions for the participants. Analysis of these interviews should form the basis for the fully developed CRP for the specific FUDS project in question. Appendix B provides a sample of such a CRP.

b. Fact Sheets.

(1) Fact sheets will address concerns expressed by the local community and will include a capsule history of the FUDS property's use while under DOD control, the status of studies and response actions, updates on schedules, and any special-interest items. Fact sheets will be distributed to stakeholders (area residents, members of citizens groups, regulatory officials, elected and civic officials) and the information repositories when events warrant.

(2) At a minimum, fact sheets will be disseminated upon an award of contract, upon initiation of work during the various FUDS project phases, and upon completion of FUDS project phases.

(3) Fact sheets on the EE/CA or RI/FS should be distributed 2 weeks prior to the initiation of a public comment period. Such fact sheets must describe the alternatives considered and offer the Army's preferred alternative for public comment. An updated fact sheet must address the selected alternative.

(4) All fact sheets must be released through the geographic district PAO, which is the releasing authority.

c. News Releases.

(1) News releases will be disseminated to local and regional news media and the information repositories upon an award of contract, upon initiation of work during the various

phases of the FUDS project, and upon completion of FUDS project phases. This medium keeps the news media informed directly and supplements information directly disseminated to stakeholders.

(2) News releases about the RI/FS or the EE/CA should be distributed 2 weeks prior to the initiation of a public comment period. Such news releases must describe the alternatives considered and offer the Army's preferred alternative for public comment. An updated news release must address the selected alternative.

(3) All news releases must be released through the geographic district PAO, which is the releasing authority.

d. Response to Queries. The geographic district PAO will serve as the POC for direct calls from the public and news media seeking information on FUDS HTRW or OE projects within its area of geographic responsibility.

e. Presentations to Groups. Slide briefings, speeches, and informational programs can be presented upon request to civic groups. The history of the FUDS property, environmental studies, and current and planned response actions should be included in these presentations.

f. Special Briefings. When appropriate, special FUDS project briefings will be given by representatives from USACE to local officials or RABs. Such briefings will be coordinated by the geographic district PAO, with logistical and technical support being provided by the military HTRW design district (for FUDS HTRW projects) or the OE Design Center (for FUDS OE projects) on an as-needed basis.

g. Public Meetings. Public meetings, both formal and informal, are required when USACE officially accepts public comments on remedial or removal response alternatives and response actions. Meetings should be held near the FUDS project and in an appropriate facility to hold the number of expected attendees from the general public. Consideration should be given to audience size, accessibility, and convenience of the location for the expected participants from the community. Proceedings of the meeting should be placed in the information repository in a timely fashion.

h. Poster Stations. The use of poster stations, which facilitate one-on-one communication, is highly desirable in situations where formally structured public meetings/hearings are not mandated.

i. Good Neighbor Program. Property owners and renters of lands adjacent to or on the FUDS property will be included on the information mailing list as stakeholders. If sufficient interest exists within this group of stakeholders, as determined by the PM and the geographic district PAO, special briefings and tours may be arranged by the PM. A visit and briefing would

be designed to place the FUDS project into perspective and to ensure that the proper emphasis on safety to life and property is understood.

j. **Special Concerns Workshops.** Individuals and groups may express unusual levels of concern or even hostility about activities that may affect the environment. If such groups or individuals emerge in the course of a FUDS project, they should be contacted directly by the geographic district PAO, in coordination with the PM, to participate in a special concerns workshop. If necessary, the workshop will allow for an open forum for the expression of concerns relating to the remedial or removal response action.

2-10. **Restoration Advisory Board (RAB).** If a RAB is established at a FUDS HTRW/OE project, it will constitute a major component of the FUDS project's community relations program. Establishing and maintaining RABs is discussed in detail in chapter 3 of this pamphlet.

CHAPTER 3 ESTABLISHING AND MAINTAINING RABs

3-1. Scope.

a. This chapter presents the procedures for establishing and maintaining RABs at FUDS properties for authorized FUDS HTRW and OE projects. These RABs are to serve as forums for discussion and exchange of information between agencies and affected communities. They provide an opportunity for stakeholders to have a voice and actively participate in the review of technical documents, to review restoration progress, and to provide individual advice to decision makers regarding restoration activities. The TAPP program, which supports RABs and TRCs, is also discussed.

b. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining RABs at FUDS projects. These procedures apply to PRP projects only when, based on a formal PRP agreement, USACE serves as the lead for execution of the response actions and agrees to establish and maintain a RAB. RABs will be established at all NPL FUDS properties and NPL-proposed FUDS properties. Where FUDS TRCs exist, they will be modified to become RABs, IAW paragraph 3-4d . RABs will be established at all other FUDS projects only where there is sufficient, sustained community interest as determined by the PM. Such interest is evidenced by any one of the following:

- (1) A state, federal, or local government requests that a RAB be formed.
- (2) Fifty local residents sign a petition requesting that a RAB be formed.
- (3) The district Commander where the PM resides determines that a RAB is needed.

For FUDS OE projects, the RAB process will be initiated when the EE/CA is initiated, provided any one of the criterion listed above exists. For FUDS HTRW projects, the RAB process will be initiated when the RI/FS is initiated, provided any one of the criterion listed above exists.

3-2. Determining the Need for a RAB.

a. It is the responsibility of the district Commander where the PM resides to determine when there is sufficient, sustained community interest to establish a RAB. When more than one FUDS project is located within a 5- to 10-mile range of each other, a regional RAB covering both FUDS projects will be considered. When a FUDS project is located near an installation that already has an established RAB, the PM should coordinate with the installation for inclusion of the FUDS restoration activities in their RAB. In addition, regional joint RABs covering restoration activities being conducted by the different services may be an option for inclusion of

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the FUDS project. This option should be considered and evaluated by the PM as appropriate. Contact HQUSACE, Directorate of Military Programs, for further information regarding regional joint RABs. When there is no existing RAB near the FUDS project, the PM will determine that at least one of the three criteria listed in paragraph 3-1b exists. Once this requirement has been met, various community involvement techniques should be used to determine whether or not a RAB should be formed. The minimum steps that must be followed are as follows:

(1) Review correspondence files to determine what community comments have been received regarding the FUDS project or other environmental issues related to the community.

(2) Review media coverage to evaluate the extent, type, and duration of such coverage.

(3) Determine interest of local community members through advertisement and public service announcements.

(4) Conduct interviews with officials and others involved in the environmental restoration process.

(5) Advertise in local newspapers.

(6) Review the CRP to determine if the residents indicated an interest in forming a RAB. Send letters and fact sheets to individuals on the mailing list to solicit their interest.

b. Local surveys also can be conducted to determine interest. If soliciting for community interest reveals that there is none, evidence of such solicitation and the fact that there was no expressed interest will be documented. That documentation will be included in the CRP and the information repository.

c. If no interest is expressed in forming a RAB, the PM will document that fact in a memorandum for record (MFR) which will be signed by the district Commander. A copy of this MFR will be forwarded to the relevant MSC and to HQUSACE, ATTN: CEMP-RF. The PM will reassess every 2 years, or when the FUDS project circumstances change, to determine if interest develops in forming a RAB.

3-3. RAB Responsibilities. The responsibilities of the RAB include:

a. Providing individual advice on environmental restoration issues to USACE and regulatory agencies.

b. Conducting regular meetings, open to the public, at convenient times and locations, in most cases after normal duty hours.

- c. Recording minutes of all meetings and making them available to interested parties.
- d. Encouraging community involvement.
- e. Developing and using a mailing list of interested parties who wish to receive information on the environmental restoration process.
- f. Reviewing and evaluating documents; for example, Archives Search Reports (ASRs), sampling and analysis data, EE/CAs, and other technical documents.
- g. Identifying FUDS project requirements.
- h. Recommending priorities among FUDS projects.
- i. Proposing cleanup levels consistent with planned land use.
- j. Developing a RAB mission statement.
- k. Developing RAB operating procedures.

3-4. Composition of RABs.

a. RABs will be comprised of the PM (or some other, higher-level USACE manager designated by the district Commander), state regulatory agency representatives, other Federal, state and local agencies as appropriate, local and tribal governments as appropriate, and affected members of the local community. The RAB at an NPL FUDS property will also have an EPA representative. At non-NPL FUDS properties, EPA membership will be at the discretion of the EPA Regional Administrator. The PM will ensure that RAB members reflect the diversity of the community.

b. RAB members will be selected in a fair and open manner, as outlined in paragraph 3-5. All selections will be made in cooperation with the appropriate Federal, state, and local regulators and affected community members. The size of the RAB will depend on the complexity of the situation, the number of stakeholders, and the level of community interest. The number of RAB members should be large enough to reflect community diversity, yet small enough to be workable. It is recommended that the RAB consist of no more than 20 members.

c. The RAB will be jointly chaired by the PM (or some other, higher-level USACE manager) and a community representative. The PM co-chairperson and community co-chairperson will share leadership responsibilities. The PM should obtain training in Robert's Rules of Order to ensure that meetings are effectively conducted. The responsibilities of each chairperson, listed in paragraph 3-6, will be defined in the RAB's operating procedures.

d. RABs will meet the requirements of 10 USC 2705(c) of the Defense Environmental Restoration Program statute which required DOD to establish TRCs. Where TRCs or other similar groups already exist, they will be expanded or modified, in consultation with the state and where appropriate EPA, to become RABs, rather than creating a separate board. These modifications will include the selection of additional community representatives, the selection of a community co-chairperson, and the establishment of a policy whereby meetings are open to the public. As a general rule, TRC members should be given preference in obtaining seats on the RAB in order to preserve the continuity of the restoration process. In all cases, the diversity of the current TRC membership should be evaluated to ensure that the RAB is representative of the community's diverse interests.

e. The RAB will remain active until the response alternative(s) for the FUDS property has been selected through the ROD, for HTRW, or the Action Memorandum, for the OE program. During the remedial/removal response action phase, RAB meetings will be held either once a quarter or semi-annually at a minimum. More frequent meetings may be held as appropriate based on the RAB Operating Procedures. The RAB will be disestablished when the remedial/removal response action is complete.

3-5. RAB Formulation and Selection, Announcement, and Training of RAB Members.

a. RAB Formulation. The PM should begin informing and educating the community about the purpose of the RAB and opportunities for membership and participation before any RAB formulation meetings are held. Sample documents that may be used in the RAB formulation process are provided at appendices C, D, E, and F. All community members identified on a local public-participation mailing list should be contacted. This process should be completed in consultation with the state, the EPA, and the existing TRC.

b. Selection of RAB Members.

(1) A selection panel made up of community members will be formed. This panel will recommend the community members who will serve on the RAB. This panel will be organized by the PM, with support from the geographic district PAO, in consultation with EPA, as applicable, and state regulators. Members of the selection panel may not serve as RAB members. The selection panel should represent a cross section of the community and its views. Representatives of minority populations and low-income groups should be included in the process. Panel members can be drawn from the following sources:

- (a) Local residents/community members.
- (b) Current TRC members.
- (c) Local environmental groups/activists, civic groups.

- (d) Business and religious community, school districts.
- (e) Low-income and minority groups.
- (f) Local government, local regulatory agencies.
- (g) Homeowners Associations.
- (h) Native American tribes/tribal governments.
- (i) Landowners of FUDS properties.

(2) The selection panel must reflect the diverse community interests and be made up of community members only. A number of options may be used when forming a selection panel provided that the membership selection process reflects balance and diversity. The PM, in consultation with EPA and the state, may choose any of the following:

- (a) Organize a selection panel of community members to nominate RAB members.
- (b) Identify a neutral facilitator to establish the selection panel.
- (c) Have community representatives choose the members of the selection panel.
- (d) Place paid public notices in the local newspapers asking for volunteers to serve on the selection panel.
- (e) Ask existing community members of the TRC to act as the selection panel.
- (f) Have the PM, the EPA, and the state representatives nominate community members to serve on the selection panel.

(3) The selection panel will identify the diverse community interest groups that need to be represented on the RAB. This process will be carried out with support from and in consultation with the geographic district PAO. Based on this identification, the panel will develop a solicitation process and establish criteria for selection of RAB members.

(4) Once the selection panel has established the selection criteria for RAB membership, the selection process should be initiated. The following selection process is recommended in order to ensure that members are selected from the diverse interest groups and to allow any other interested community members to be considered for RAB membership:

(a) Announce participation opportunities through news releases and paid public notices (see sample at appendix C).

(b) Develop a community interest form to determine community concerns and their interest in participating (see sample format at appendix D).

(c) Establish a time period for receipt of the community interest forms.

(d) Mail letters of invitation (see sample at appendix E), fact sheets (see sample at appendix F), and community interest forms to all community members on the existing mailing list and to the groups identified by the selection panel.

(e) Place fact sheets and community interest forms in information repositories and at other locations where the public may normally look for community information, such as libraries, community centers, supermarkets, etc.

(f) Hold an initial public meeting about the RAB to discuss purpose, member solicitation process, and membership responsibilities; provide fact sheets and community interest forms to meeting attendees.

(5) After the designated solicitation period ends, the selection panel will convene to develop a list of suggested RAB members who reflect the diverse interests of the community. The community interest forms submitted will be used in developing this list. The selection panel will submit the list of suggested RAB members, along with full explanation establishing the fact that the members represent the diverse interest groups of the community, to the PM for the district Commander's approval. The district Commander, in consultation with EPA and state representatives, must accept the list unless it is determined that the diverse community interests are not fully represented. If this determination is made, the district Commander will specify the weaknesses to be corrected. The selection panel will be instructed to develop a new list for review and approval. Once the list is approved, the selection panel will be disbanded.

c. Announcement of RAB Members.

(1) RAB membership should be announced by the geographic district PAO, based on information provided by the PM, in the following manner:

(a) Send letters to the selected RAB members to notify them of their selection. Send news releases to the local newspapers announcing the formation of the RAB and the date of the first meeting.

(b) Send letters to those who submitted community interest forms but were not selected, announcing the names of the RAB members, thanking those not selected for their interest,

encouraging them to attend future RAB meetings, and notifying them that their interest forms will be kept on file in case future membership openings should occur.

(c) Distribute a brief fact sheet announcing the RAB members and meeting schedule and publicly thanking all community members who expressed an interest in RAB participation and encouraging ongoing community attendance and participation at future RAB meetings.

(2) Additions to and deletions from the RAB can be made at any time the RAB deems necessary. Procedures for additions and resignations should be outlined in the operating procedures discussed in paragraph 3-7. A sample Operating Procedures for RABs is provided at appendix G.

d. Training of RAB Members. RAB members will require some initial orientation to enable them to perform their duties. The PM should work with the state, EPA, and environmental groups to develop methods to inform and educate RAB members. This training may be accomplished at initial RAB meetings or at special orientation sessions. RAB members will be provided instruction on the relative risk process, the budgeting process, and how these affect the sequencing of restoration response actions so that RABs can provide informed advice. Technical support staff from state, Federal, and local agencies should be requested to attend such sessions to provide information and explanation to RAB members. In addition, contractors who are performing work at the FUDS property can provide technical support.

3-6. Member Roles and Responsibilities.

a. USACE Co-Chair. It is the responsibility of the USACE Co-Chair (i.e., the PM or the higher-level USACE manager) to:

(1) Coordinate with the community Co-Chair to prepare and distribute an agenda prior to each RAB meeting.

(2) Ensure that USACE participates in an open and constructive manner.

(3) Ensure that the RAB has the opportunity to participate in the restoration decision process.

(4) Ensure that community issues and concerns related to restoration are addressed when raised.

(5) Ensure that documents distributed to the RAB are also made available to the general public.

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(6) Ensure that an accurate list of interested/affected parties is developed and maintained. This will be done with the assistance of the RAB and the geographic district PAO.

(7) Provide relevant policies and guidance documents to the RAB in order to enhance the RAB's operation.

(8) Ensure that adequate administrative support is provided to the RAB.

(9) Refer issues not related to restoration to appropriate district officials for action.

(10) Report back to the USACE district.

b. Community Co-Chair. It is the responsibility of the community Co-Chair to:

(1) Coordinate with the USACE Co-Chair and RAB community members to prepare an agenda prior to each RAB meeting.

(2) Ensure that community members participate in an open and constructive manner.

(3) Ensure that community issues and concerns related to restoration are raised.

(4) Assist with the dissemination of information to the general public.

(5) Report back to the community.

(6) Serve without compensation.

c. RAB Community Members. It is the responsibility of RAB community members to:

(1) Attend RAB meetings as required by the RAB operating procedures.

(2) Provide individual advice and comments on restoration issues to decision makers.

(3) Represent and communicate community interests and concerns to the RAB.

(4) Act as a conduit for the exchange of information among the community, the USACE district(s), and environmental agencies regarding the restoration program.

(5) Review, evaluate, and comment on documents and other such materials related to restoration activities.

(6) Serve without compensation.

d. State Regulatory Agency Member. It is the responsibility of the state regulatory agency member to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Review documents and other materials related to restoration.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (6) Assist in education and training for RAB members.

e. EPA Member. Where EPA participates, it is the responsibility of the EPA members to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Assist in education and training for RAB members.

3-7. RAB Operations.

a. RAB Operating Procedures.

(1) The RAB is responsible for developing its operating procedures. These procedures should cover attendance requirements, meeting frequency, removing/replacing Co-Chairs and replacing/adding members, terms of service (1- or 2- year terms should be considered), methods for resolving disputes, process for reviewing and responding to public comments, and methods for public participation. These procedures should reflect the fact that all advice provided by the RAB is to be understood to be the advice of the individual RAB members, not consensus advice of the

RAB. The RAB is not an advisory committee, as that term is used in the Federal Advisory Committee Act (FACA). If consensus advice is determined by the RAB to be necessary, legal counsel should be consulted regarding FACA applicability. A sample Operating Procedures for RABs is provided at appendix F.

(2) Each RAB will develop a brief mission statement that specifies its overall purpose. For example, "The RAB mission is to establish and maintain a forum with all stakeholders for the exchange of information in an open and interactive dialogue concerning the environmental restoration activities at this FUDS property."

b. RAB Support. The PM must ensure that adequate administrative support is provided to establish and operate the RAB. This support will typically include the following:

- (1) Providing meeting facilities, organizing and facilitating public meetings.
- (2) Preparing and distributing meeting minutes, management of RAB mailing lists, mailings, and other routine word-processing tasks.
- (3) Copying/printing and distributing RAB documents, notices, and fact sheets.
- (4) Translating and distributing outreach and other RAB materials.
- (5) Modifying CRPs to incorporate RAB requirements.

3-8. Technical Assistance for Public Participation (TAPP). * The TAPP program provides community members of RABs and TRCs access to independent technical support through the use of Government purchase orders. Community members of a RAB or TRC apply to the USACE district Commander for independent technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards and restoration activities at a FUDS property. The RAB/TRC must demonstrate either that (1) the Federal, state, and local agencies responsible for overseeing environmental restoration at the FUDS property, and available DOD personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained or that (2) the technical assistance is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the FUDS property and community acceptance of environmental restoration activities at the FUDS property. (See appendix H for a copy of the Federal Register notice containing the final rule which explains the TAPP program.)

* The information presented in paragraphs 3-8 through 3-11 is derived, with modifications, from Technical Assistance for Public Participation Policy Implementation Guidance and Restoration Advisory Board Update, U.S. Army Corps of Engineers, 1998.

a. **Eligible Applicants.** To receive independent technical assistance from USACE under the TAPP program, RABs and TRCs must propose a project and apply to the USACE district Commander responsible for the project management. Only community members (not Government members) of recognized RABs/TRCs are eligible to apply for independent technical assistance from USACE using the TAPP authority. Also, there must be a minimum of three community members, i.e., non-Government members, on a RAB/TRC in order to apply for TAPP. Any request for TAPP must represent the wishes of the majority of the community members, and the RAB/TRC must certify a majority request on the TAPP application.

b. **Eligible TAPP Projects.** The following types of technical assistance projects related to DERP activities at a FUDS property are eligible for funding by USACE under the TAPP program:

(1) **Interpret technical documents** - the FUDS program documents each stage of investigation and decision making with technical reports that summarize data and support cleanup decisions. Technical assistance may be provided to review and interpret plans and technical documents such as studies of the FUDS property, risk assessments, and health assessments.

(2) **Assess technologies** - explain the function and implications of those technologies elected to investigate or clean up a FUDS property (e.g., understand how vapor extraction works and under what conditions the technology is appropriate).

(3) **Participate in relative risk evaluations** - technical assistance may be provided to help RAB/TRC community members contribute to the relative risk evaluation process for a specific FUDS project(s).

(4) **Interpret health implications** - interpret the potential health implications of cleanup levels or response technologies or explain the health implications of FUDS property contaminants and exposure scenarios.

(5) **Certain types of training** - technical training on specific restoration issues may be appropriate in circumstances where RAB or TRC members need education or supplemental information on FUDS restoration projects. (Note: TAPP may be used to obtain training to assist the community in understanding processes, health effects, and alternative technologies or to obtain 40-hour safety training certification to go into the "HOT" zones of cleanup areas. In most cases, Federal or state agency personnel can provide training.)

c. **Ineligible TAPP Projects.** The following types of technical assistance projects are not eligible for funding by USACE under the TAPP program:

(1) **Activities associated with nonrestoration issues**, such as compliance, are not eligible for TAPP because such activities are not within the purview of RABs/TRCs.

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(2) Litigation or underwriting legal actions such as paying attorney fees or paying for a technical assistance provider to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the FUDS property.

(3) Political activity and lobbying as defined by Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations."

(4) Other activities inconsistent with the cost principles stated in OMB Circular A-122.

(5) Generation of new primary sampling data, such as well drilling and split sampling.
(Note: USACE, in coordination with the regulatory agencies, is responsible for developing investigation strategies to ensure that potential hazards are adequately characterized. If the RAB or TRC members identify a circumstance where they feel that additional data collection may be necessary, these concerns should be communicated to the USACE Co-Chair of the RAB or TRC or to the appropriate regulatory agency for evaluation.)

(6) Disputes with USACE over remedy selection or any other aspects of the restoration program, or to reopen final Army CERCLA decisions, such as RODs, or conducting disputes with USACE.

(7) Epidemiological or health studies, such as blood or urine testing.

(8) Community outreach efforts, such as reproducing reports, conducting FUDS property tours, renting meeting rooms, and distributing newsletters.

d. TAPP Process.

(1) Step One - Identification of Need. When RAB/TRC community members initially determine a desire for independent technical assistance, they must demonstrate that the technical expertise necessary for the proposed project is not available through the Federal, state, or local agencies responsible for overseeing environmental restoration at the FUDS property or that the selection of an alternate provider will contribute to the environmental restoration activities and the community acceptance of these activities. In determining if the technical assistance may already be available, the RAB/TRC community members must first consider the following sources of assistance:

(a) Federal and state environmental regulatory agency personnel responsible for overseeing the environmental restoration program at the FUDS property (e.g., EPA TAG or TOSC support).

(b) Volunteer sources from within the community (e.g., local universities or local or state environmental organizations).

- (c) Contractors already working at the FUDS property.

Upon determining that other sources of assistance are unavailable or unlikely to contribute to the community acceptance of environmental restoration activities at the FUDS property, the RAB/TRC must notify the USACE district Commander of its intention to pursue TAPP. The community members of the RAB/TRC then define the scope of the independent technical assistance, determining that it meets a genuine need of the RAB/TRC, meets the eligibility criteria, and is limited in scope to the available resources.

(2) Step Two – Application.

(a) Once the scope of the proposed TAPP project has been defined, the RAB/TRC community members must prepare and submit a formal application which specifies the type of assistance required and, if possible, one or more sources for this assistance. USACE districts should contact CEMP-RF for a copy of the latest form to be used for this purpose. The RAB or TRC may outline additional criteria, such as knowledge of local environmental conditions or specific technical issues, a prior work history within the study area which has relevant specific circumstances or unique challenges, or other relevant expertise or capabilities for USACE to consider in selecting an assistance provider. The project description prepared by the RAB/TRC should contain sufficient detail to enable USACE to determine the nature and eligibility of the project, identify potential providers, estimate costs, and prepare a statement of work (SOW) to begin the procurement process. The community members must identify a single POC for communication with the USACE district Commander's staff regarding the TAPP procurement process and confirm that the project is the result of a majority decision by the community members of the RAB/TRC.

(b) The USACE RAB Co-Chair reviews the application to ensure that it is complete, describes an eligible project, and will likely be within the TAPP funding limit (see paragraph 3-10b). The USACE Co-Chair, in coordination with the RAB/TRC, prepares a draft SOW. The TAPP application, with the draft SOW, is forwarded to the USACE district Commander for approval.

(3) Step Three – Approval.

(a) The USACE district Commander or other appropriate decision authority will consider the TAPP request and approve or deny the TAPP application. As part of the approval process, the district Commander determines that the proposed project conforms to eligibility requirements, that the community has sought other avenues of assistance prior to applying for the TAPP, and that funding is available for a TAPP. When other avenues for assistance exist, but the community members desire an independent provider, the USACE district Commander must assess whether or not providing assistance will enhance the environmental restoration program and improve

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community support. TAPP applications that fail to meet the requirements relating to relevance to DOD restoration activities at the FUDS property will be denied.

(b) If the TAPP application is approved, the USACE district Commander forwards the request to the USACE district Contracting Officer for procurement. If the application is denied, the USACE district Commander must inform the RAB/TRC, indicate the reason for denial, recommend alternatives for achieving the desired assistance, and describe procedures to appeal the decision IAW paragraph 3-8e. The RAB/TRC may then decide whether to reapply or to appeal the USACE district Commander's decision.

(4) Step Four – Procurement. The USACE district Commander forwards the approved TAPP request to the USACE district procurement and contracting office. Procurements generally will be conducted as purchase orders IAW the Federal Acquisition Regulations (FAR) (48 CFR Part 13) and will comply with all requirements for full and open competition under the Competition in Contracting Act (10 USC 2304). The district procurement and contracting office will award and manage the contract to the selected assistance provider. The USACE Co-Chair of the RAB will serve as a liaison between the RAB community members and the district procurement and contracting office and will also serve as the Contracting Officer's Representative (COR).

(a) Finding a Potential Assistance Provider. The RAB/TRC community members may nominate potential assistance providers for the proposed TAPP project on the TAPP application. The USACE Contracting Officer may add these providers to the bidders mailing list. The RAB/TRC may have specific criteria in mind for the provider to demonstrate. Potential assistance providers must have:

- Demonstrated knowledge of hazardous or toxic waste issues and/or laws.
- Academic training in a relevant discipline.
- Ability to review, understand, and put technical information into terms understandable to lay persons.

Potential assistance providers should have:

- Experience working on hazardous or toxic waste problems.
- Experience in making technical presentations.
- Demonstrated writing skills.
- Previous experience working with community groups.

Community members of the RAB/TRC may suggest additional provider qualifications as part of the TAPP application. These may be used by USACE in the procurement process to identify the most appropriate provider. If the USACE Contracting Officer selects a provider not nominated

by the RAB/TRC, USACE must so inform the RAB/TRC and determine if they wish to proceed with the procurement.

(b) Simplified Acquisition Procedures (SAP). Because of the dollar levels involved in the procurement, the USACE district procurement and contracting office will generally use SAP to process the approved TAPP request as a purchase order. The benefits of using SAP are that solicitations can be shorter, contracting methods more direct, payment methods quicker, and documentation generally less burdensome. Factors other than price, such as prior performance or the demonstration of other specialized skills, may be considered and require only a minimal amount of documentation when SAP is used.

(c) Independent Government Cost Estimates. The independent Government cost estimate is developed by the COR based on the SOW. The USACE district procurement and contracting office must be aware of the source and limits of funding for TAPP projects (see paragraph 3-10). The RAB/TRC should be notified if the Government cost estimate for a proposed project exceeds the planned budget. In such instances, unless a waiver to the current policy limits on TAPP expenditures (see paragraph 3-10b) were approved, the procurement as proposed would not proceed. Given this circumstance, the RAB/TRC community members might wish to modify the SOW so that it more closely matches the available resources and resubmit the procurement request.

(d) COR. The COR directs the technical aspects of the contract and assesses the performance of the contractor, with input from the community, at the conclusion of the project. The USACE RAB Co-Chair will in most instances perform the function of the COR. It is important to remember that, although the RAB/TRC initiates the project and has a significant stake in its outcome, the contract is a Government contract, and the contractor must receive direction from the Government Contracting Officer. The COR must ensure that the contractor understands this relationship. Likewise, it is important that the RAB/TRC community members understand their relationship to the contractor. New tasks or changes to the work schedule or scope must come through the COR to the USACE district Contracting Officer because the community members of the RAB cannot task the contractor directly. Communications between the community members of the RAB and the contractor could lead to problems if the community members direct the assistance provider to conduct work not identified in the purchase order agreement. Therefore, either the USACE Contracting Officer or the COR must be present during any such discussions.

(5) Step Five – Assistance Provided. When the Government purchase order is awarded, the selected independent contractor will work with the community members of the RAB/TRC through the COR to provide the requested assistance.

(6) Step Six – Reporting. Each RAB/TRC that receives TAPP must submit a report to the USACE district procurement and contracting office at project completion. This report must

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indicate, by fiscal year, the amount of TAPP funds obligated and evaluate for each project whether or not the TAPP assisted the community in participating in the restoration program. The final report must document TAPP project activities over the entire period of support and must describe achievements with respect to stated TAPP project purposes and objectives. Additional reporting requirements for the USACE district Commander are explained in paragraph 3-11.

e. Appeals.

(1) Disagreements may occur between the USACE staff and the RAB/TRC community members at several points during the TAPP process. For instance, the USACE district Commander may deny an application for TAPP because the budget cannot accommodate the cost near the end of a fiscal year, or the proposed TAPP project may be ineligible because it does not meet the eligibility criteria, or the RAB/TRC community members may dispute the findings of the USACE district Contracting Officer regarding the proposed provider. It is in the best interest of USACE and the community members of the RAB/TRC to avoid disputes and to work cooperatively to resolve potential differences of opinion. In the event that a dispute arises, the community members of the RAB/TRC may wish to appeal the USACE district Commander's decision. The following general operating principles apply when a RAB/TRC wishes to appeal a decision:

(a) Inherently governmental functions, such as the procurement process governed by the FAR, are not subject to appeal.

(b) Eliminating disagreements and roadblocks should be emphasized.

(c) Appeals should be resolved quickly.

(d) Appeals should be resolved at the lowest level possible.

(e) Appeals should be resolved within the Army.

(2) Typically, the appeals process begins with the USACE district Commander (15-day review); then to the USACE MSC Commander (30-day review); then to the Director of Military Programs, HQUSACE (30-day review); and, finally, through the Director of Environmental Programs of the Army to the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health (DASA(ESOH)) (30-day review) (see figure 3-1). For all USACE RABs/TRCs, DASA(ESOH) is the last authority for any appeal concerning TAPP.

(3) Ground rules, as they relate to the appeals process, include:

(a) The majority of RAB/TRC community members must agree to the appeal.

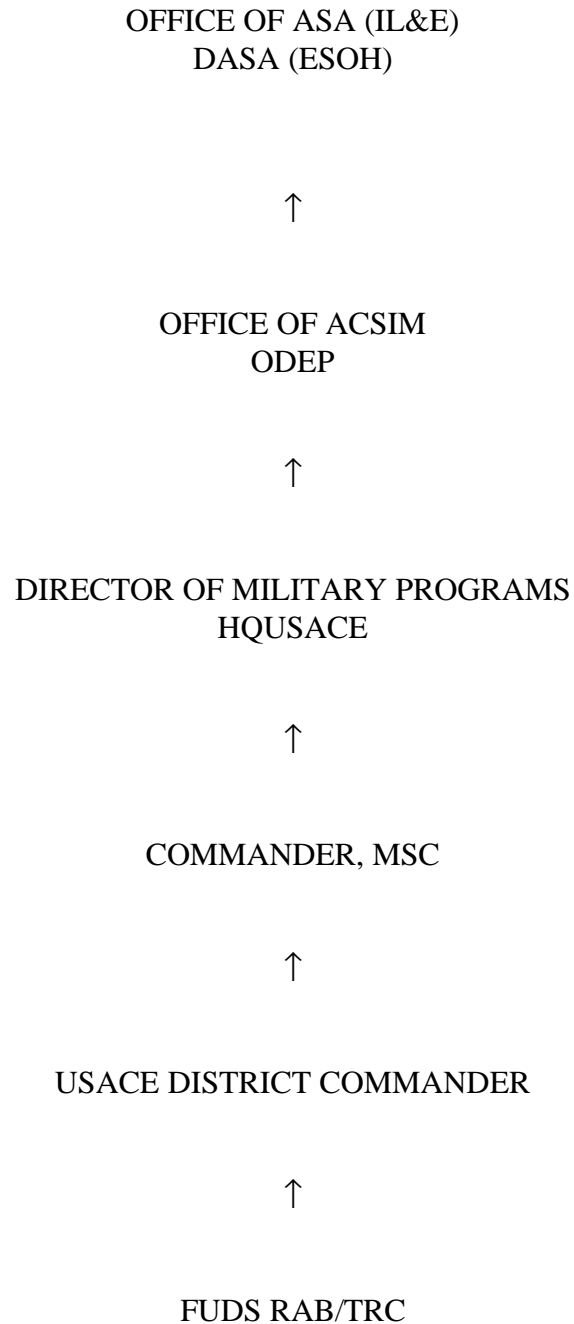


Figure 3-1. Chain of Command for RAB Appeals

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(b) The RAB/TRC must appoint a single spokesperson.

(c) Written justification, submitted to the USACE district Commander, must accompany the appeal.

(d) If the USACE district Commander chooses not to support the appeal, he or she must endorse the appeal to the next higher level of the chain of command, with rationale for denying the appeal.

(e) Appeals must follow the appeals process and cannot skip or circumvent command levels. At each command level, both the appeal and each Commander's endorsement must be considered.

These ground rules are designed to speed the appeals process and to ensure that the appeal has the support of the majority of RAB community members.

3-9. Additional Technical Support. To ensure that RAB/TRC members clearly understand the issues involved in environmental cleanup activities, technical support is available from the USACE district staff and USACE, MSC, and USAEC contractual support. Examples of the types of technical support that could be provided include updates and status reports on ongoing environmental restoration efforts, explanation of technical and risk assessment data, explanation of the relative risk site evaluation procedures and results, planning and facilitating FUDS property visits, and preparation of briefing packages and handouts. Technical support is also available from MSCs, USAEC, the U.S. Army Technical Center for Explosives Safety, the U.S. Naval Explosive Ordnance Disposal Technical Center, EPA (TAG and TOSC support, for example), other Federal agencies, and state regulatory agencies. The following Army agencies are familiar with RABs/TRCs and the TAPP program and are able to provide assistance to the USACE district Commander.

a. USACE MCXs. Technical support is available to the RAB/TRC from the USACE MCXs for HTRW and OE. These organizations may provide in-house and contractual support to explain technical data and related issues to the RAB/TRC. In many cases, the restoration contractor already performing work at the FUDS property can provide technical support. The USACE district Commander should determine the type and level of contractual support available from current contracts when providing technical support to the RAB/TRC.

b. U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM). USACHPPM also has a staff of environmental health professionals (including scientists, geologists, engineers, and physicians) to assist a RAB. The USACE district Commander can directly contact USACHPPM to request support. This support can be provided by reimbursable funds, if needed. The USACHPPM's Environmental Health Risk Assessment and Risk

Communication Program can provide support to RABs by providing assistance on technical issues regarding human health and environmental risk. The USACHPPM program can also provide risk communication support to RABs through their consultation and training services, which include advisory, technical, and logistical support of public meetings, public exhibits, and open dialogue sessions.

3-10. Funding. RABs may be eligible for TAGs from EPA to cover costs associated with NPL FUDS properties. For non-NPL FUDS properties, RABs may be eligible for TOSC support from EPA. RAB members or other community groups may form an organization and apply for a TAG or TOSC to obtain funding for technical support. Costs associated with administrative support to RABs/TRCs and TAPP are eligible for funding from the FUDS Environmental Restoration Account. There is no separate centrally funded RAB/TRC and TAPP account. USACE MSC Commanders will program and budget RAB and TAPP support from their allocation of Program Objective Memorandum FUDS funds.

a. RAB/TRC Support. The USACE district Commander will program funding to establish and operate RABs/TRCs and for the TAPP program. Costs incurred by the USACE district Commander's staff to operate RAB/TRC and provide TAPP are considered RAB administrative support and are funded as project management funds. The contractual support and other authorized RAB/TRC and TAPP execution will be recorded by using the Army Management Structure Code, i.e., 493008.2A for RAB, 493008.2B for TRC, and 493008.2C for TAPP. The Project Execution and Accounting Report will be recorded under the FUDS Environmental Restoration Account. The USACE district Commander's staff should review the definition of RAB/TRC and TAPP administrative funding when identifying RAB funding requirements and outlays. The following are the RAB/TRC eligible and ineligible expenditures:

(1) Eligible RAB/TRC Expenditures.

(a) Activities directly related to the establishment and operation of a RAB will qualify as administrative expenses. Such expenses include member recruitment; meeting announcements; meeting logistics; development of mission statements and operating procedures; facilitators (including translators); preparation of meeting agendas, materials, and minutes; document reproduction for RAB members; maintenance of a RAB mailing list and mailing of relevant information; and orientation training.

(b) Contractor expenses specifically in administrative support of the RAB.

(2) Ineligible RAB/TRC Expenditures.

(a) RAB administrative expenses do not include community involvement expenses, such as preparation of fact sheets or other information materials for public distribution, costs of public

meetings, mailings, responding to public comments on the restoration program, or repository costs. Also, expenditures/outlays to determine the interest of a community in establishing a RAB/TRC are considered to be project management expenses and are not to be charged to RAB/TRC accounts.

(b) Salaries for DOD personnel, and temporary duty travel of DOD personnel in connection with RAB/TRC and TAPP activities. These expenditures must be captured as project management costs.

(c) Dedicated equipment, such as computers, software, facsimile machines, telephone lines or access, or electronic mail for RAB community members.

(d) Renting dedicated office space for and providing administrative support services to RAB community members.

(e) Printed stationary and personal business cards.

(f) Temporary duty travel, conference attendance, or conference fees for RAB community members.

(g) Compensation to RAB members for meeting attendance, work hours lost, time invested in reviewing and commenting on documents, travel to RAB meetings, or long distance telephone calls.

b. TAPP Support.

(1) Funding for independent technical assistance for RAB/TRC community members under the TAPP program may be necessary on a case-by-case basis. There is no separate appropriation for TAPP. TAPP projects will be funded from the USACE MSC's allocation of FUDS funds. TAPP is not a grant or direct funding to the RAB/TRC, nor is it a blank check to use at the RAB's/TRC's discretion.

(2) Current policy limits TAPP expenditures for each FUDS property with a RAB/TRC to an annual maximum of \$25,000 or 1 percent of the cost to complete restoration activities (studies, design, cleanup, and operation and maintenance costs) for the FUDS property at the time TAPP is requested, whichever is less, with a lifetime maximum of \$100,000 per FUDS property.

(3) To obtain necessary funding, the USACE district Commanders must program appropriate TAPP requirements. Each PM for the FUDS property with a RAB/TRC and TAPP must determine his or her funding requirements in the budget cycle and program accordingly in the FUDS data base and/or workplans.

(4) Waivers to the \$100,000 total and \$25,000 annual funding limits may be approved by DASA (ESOH). Waiver requests must follow the normal appeals process (see paragraph 3-8e). Requests for waivers are initiated by the RAB/TRC community members and forwarded by endorsement with recommendations by the USACE district Commander through the chain of command to DASA(ESOH). The following considerations may affect the granting of a waiver:

- (a) The size or complexity of the FUDS restoration project.
- (b) The nature and extent of contamination.
- (c) The level of restoration activity at the FUDS property.
- (d) The size and diversity of the affected community.
- (e) Funding received by the community from other Federal sources.

c. Public Participation. Public participation on the RAB/TRC and in the TAPP process will be strictly voluntary, with the exception that state representatives on the RAB may receive reimbursements authorized under the Defense and State Memorandum of Agreement process. USACE will not provide financial support to the public members for their services, nor will members be compensated for work hours lost or time invested in review and commentary on documents. The USACE RAB Co-Chair must ensure that the public clearly understands this fact during the member recruitment process and prior to any final commitment by a public representative to serve on the RAB/TRC or to participate in the TAPP process.

3-11. Reporting. DOD's Management Guidance for the Defense Environmental Restoration Program requires that USACE report on the RAB/TRC and TAPP activities through the Army to DUSD(ES). The USACE district Commander will provide the following information and reports through the relevant MSC to HQUSACE (ATTN: CEMP-RF). Table I-1 provides the reporting requirements summary.

a. RAB Establishment and Activities.

(1) The National Defense Authorization Act for Fiscal Year 1996 requires that DOD provide an annual RAB report on funding and activities, including TAPP. To meet these reporting requirements, HQUSACE summarizes RAB and TAPP data at the Army's semiannual In-Process Reviews with the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)). MSCs are required to summarize the status of RABs and TAPPs during the semiannual FUDS Program Execution Reviews and submit these summaries to HQUSACE IAW table I-1.

(2) Army policy is that all FUDS properties with a restoration program determine community interest in establishing and participating in a RAB. HQUSACE requires that only RABs be established and that existing TRCs be converted to RABs. The USACE district Commander is, therefore, required either to establish a RAB at each FUDS property requiring cleanup or document why a RAB cannot be established. Exceptions to establishing a RAB at the FUDS property may be made in instances where the FUDS property owner objects to the establishment of a RAB, or the FUDS project duration is so short (less than 1 year from an investigation phase to a remedial/removal response completion phase) as to make RAB establishment infeasible, or the FUDS property is in a remote location with no community nearby, or all major environmental cleanup decisions for all FUDS projects for the entire FUDS property have already been made. If a RAB is not being established, the rationale for not doing so will be documented in an MFR which must be signed by the USACE district Commander. A copy of this MFR will be forwarded to the relevant MSC and HQUSACE (ATTN: CEMP-RF).

(3) DUSD(ES) requires reporting on the RAB and the TAPP data. The data will be submitted to HQUSACE biannually by MSCs per table I-1. The data will be provided in tables I-1 through I-9.

b. TAPP.

(1) When the USACE district Commander provides support to a RAB or TRC through the TAPP program, there are two distinct reporting requirements. The RAB/TRC is required to submit a report (see paragraph 3-8d(6)). In addition, the USACE district Commander will report on the results of the TAPP project. The district Commander's report must be based on the RAB/TRC report to the USACE Contracting Officer, and it must contain the following information:

- (a) Name of the FUDS property and its identification number.
- (b) Name of the assistance provider.
- (c) Cost of the project.
- (d) Duration of the project.
- (e) Short description of the scope of the project.
- (f) Short description of the results of the project.
- (g) Discussion of any technical actions taken because project results conflicted with previous USACE views.

- (h) RAB/TRC satisfaction with the project.
 - (i) Discussion of any problems/issues that came up during the TAPP process.
 - (j) Discussion of the resolution of any problems/issues that came up during the TAPP process.
- (2) The USACE district Commander will submit this report, along with the report submitted by the RAB/TRC, through the relevant MSC to HQUSACE (ATTN: CEMP-RF). HQUSACE will submit all TAPP reports to DUSD(ES) at semiannual In-Process Reviews. The results of a TAPP project should be shared with the community as a whole, and the TAPP report should be retained in the Administrative Record for the FUDS property restoration program.
- c. RAB Disestablishment. The USACE district Commander may consider disestablishing a RAB/TRC at the FUDS property under the following situations:
- (1) When there is no longer a need for the level of community participation in the environmental restoration program that is usually provided by a RAB/TRC.
 - (2) The FUDS property no longer has an environmental restoration program, i.e., all known contamination at the FUDS property has been eliminated.
 - (3) All environmental restoration remedies are in place and are operating properly and successfully.
 - (4) There is no longer sufficient, sustained community interest.

If the RAB is disestablished, the rationale for doing so will be documented in an MFR which must be signed by the USACE district Commander. A copy of this MFR will be forwarded to the relevant MSC and HQUSACE (ATTN: CEMP-RF).

3-12. Community Involvement. The RAB should encourage the public to participate in discussions throughout the environmental restoration process. Many communication techniques are available for use in encouraging public involvement. The RAB should work closely with the geographic district PAO to ensure continued public involvement by means of the following:

- a. A CRP should be in place to specify a plan of action for keeping the community involved and informed. (See paragraphs 2-7d through k for discussion of CRP content.)
- b. If a CRP already exists for a FUDS project, that plan should be amended by inserting RAB information (such as meeting minutes, descriptions of public involvement activities, etc.) as

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addenda to the plan. The plan and addenda should be placed in the information repositories. When the FUDS project is nearing completion, the basic plan should be revised to incorporate these addenda.

c. A mailing list of RAB members, elected officials, the local media, community groups, members of the public, and USACE POCs (technical and public affairs) should be developed and maintained. Public notices, fact sheets, and other handout materials should be sent to all individuals on the mailing list. (Note that the Privacy Act prohibits release of names, addresses, and phone numbers without prior consent.)

d. Information repositories should be established in the local area (at or near the FUDS property). These repositories, generally located at libraries or other publicly accessible locations, should contain documents reflecting ongoing environmental restoration activities, e.g., EE/CA reports, the RI/FS, proposed plans, the CRP, RAB meeting minutes, Public Notices, public comments and responses to those comments, etc.

e. The PM will solicit and respond (in writing) to comments. Public comment periods will be provided as specified in law and applicable regulations. In general, all draft and final documents distributed to the RAB for review and comment should be made available to the general public for a minimum of 30 days before comments are due. For documents where a review period is shorter than 30 days for regulatory staff, this same shorter review period would also apply to the review by the RAB and community members. Every effort should be made to provide the RAB and community members with an adequate review period. Special-focus meetings of the RAB may be called to review and comment on key documents. Formal, written responses should be prepared to all substantive comments received from the RAB and the general public.

CHAPTER 4 ESTABLISHING AND MAINTAINING ADMINISTRATIVE RECORDS

4-1. Scope.

a. This chapter presents the procedures for establishing and maintaining Administrative Records IAW CERCLA for all authorized FUDS HTRW and OE projects at FUDS properties.

b. The Administrative Record, established under section 113 (k) of CERCLA, serves two primary purposes. First, the Record contains those documents which form the basis for selection of a response action and, under section 113 (j), judicial review of any issue concerning the adequacy of any response action is limited to the Record. Second, section 113 (k) requires that the Administrative Record act as a vehicle for public participation in selecting a response action. The procedures discussed in this chapter were developed to ensure that USACE Administrative Records meet these twin purposes.

c. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining Administrative Records for HTRW and OE response actions at FUDS projects. These procedures do not apply to PRP projects unless USACE is designated the lead agency for execution of this work based on a formal PRP agreement. These procedures are applicable to PRP projects when, based on such an agreement, USACE serves as the lead for execution of the response actions and agrees to maintain the Administrative Record.

4-2. Definition of Administrative Record.

a. The Administrative Record is the body of documents that "forms the basis" for the selection of a particular response at the FUDS project. Documents which are included are relevant documents that were relied upon in selecting the response action, as well as relevant documents that were considered but ultimately rejected (i.e., documents "considered or relied on") (see appendices J, K, and L for particulars relating to Administrative Record documentation requirements).

b. This guidance uses the phrase "considered or relied on" in discussing which documents should be included in the Administrative Record to indicate that it is USACE's general policy to be inclusive for placing documents in the Administrative Record. However, drafts or internal documents are generally not included in the Administrative Record except in specific circumstances (see paragraph 4-10).

c. The following principles should be applied in establishing Administrative Records:

(1) The Record should be compiled as documents relating to the selection of the response action are generated or received by the Army.

(2) The Record should include documents that form the basis for the decision, whether or not they support the response selection.

(3) The Record should be a contemporaneous explanation of the basis for the selection of a response action.

d. With each type of document, apply the question, "Will this document lead to a response decision?" Many documents that comprise the FUDS project file are support or housekeeping documents that are necessary, but do not contribute to the decision-making process. Documents such as correspondence and work and safety plans may contain information that would be appropriate to include. Some documents contain privileged Government information, such as procurement negotiation memorandum or cost reports that would be inappropriate to release to the public.

e. The effort to establish adequate Administrative Records encompasses a vast array of people, including on-scene coordinators, records managers, PMs, Office of Counsel, public affairs, real estate office, and other Federal agencies. The decision to include those documents labeled U in appendix J will require strong coordination with those offices that will play a role.

f. This procedure includes not only those documents which will comprise the Administrative Record, but will also include a description of a model file structure for an entire FUDS project file (appendix K). The use of this model file structure is optional. If used, however, it affords uniformity and consistency throughout the HTRW and OE programs in the Army.

4-3. Judicial Review.

a. An internal procedure will be developed to channel those documents that are questionable for inclusion in the Administrative Record through the appropriate offices to ensure proper review and coordination. Appropriate offices may include Project Management, Records Management, and Real Estate in conjunction with the Office of Counsel from the district where the PM for the FUDS project resides. Since judicial review of any issues concerning the adequacy of any response action is limited to the Administrative Record, based on section 113 (j) (1) of CERCLA, it is imperative that Office of Counsel have lead responsibility in making final determinations. Counsel will become involved in making decisions for inclusion of documents in the Administrative Record as the documents are being created. The Administrative Records

Coordinator will send all questionable documents (see appendix J - those items marked with a) to the appropriate offices for evaluation and recommendation as to their suitability for inclusion.

b. Section 113 (j)(1) of CERCLA and general principles of administrative law limit the courts to the use of the Administrative Record to support judicial review when the adequacy of a response action is being challenged. As a result, facts or arguments related to the adequacy of a response action that challenging parties present for the first time in court will not be considered since they are not included in the Administrative Record. This statutory limitation does not apply to other litigation which may occur involving active installations or FUDS properties.

c. Administrative Record review saves time by limiting the scope of trials in cases where the adequacy of the response action is being challenged. In these types of cases, the courts may limit a party challenging a decision regarding the use of discovery, hearings, or additional fact finding to look beyond the agency's Administrative Record, except in very limited circumstances. In particular, courts generally will not permit persons challenging a response decision to depose, examine, or cross-examine Federal agency decision makers concerning the selection of the response action. The Administrative Record may have a very important role to play in all litigation. For example, evidence outside the Administrative Record will be both discoverable and admissible in cases which are not exclusively challenging the adequacy of the response action. In these types of cases, the Administrative Record can be critical to help establish the Government's case, even if it is not the exclusive information available for use.

d. The Administrative Record may be cited long after officials responsible for the response decisions have moved into different positions or have left the lead or support agency. Judicial review limited to the Record saves time involved in locating former employees who may not remember the facts and circumstances underlying decisions made at a much earlier time. Therefore, the extent to which the Army benefits from having judicial review limited to the Record depends on the quality and completeness of each Record.

4-4. Public Participation.

a. Section 113 (k) (2) of CERCLA requires that the public have the opportunity to participate in developing the Administrative Record for response selection. Sections 117 and 120(f) of CERCLA also include provisions for public participation, to include State and local officials, in the remedial/removal response action planning and selection process. These sections reflect a statutory emphasis on public participation. Therefore, the Administrative Record file will be developed with the involvement of the public as discussed in paragraphs 4-13, 4-14, and 4-15. Participation by interested persons will ensure that the Government has considered the concerns of the public during the response selection process. In addition, for purposes of administrative and judicial review, the Record will contain documents that reflect the participation of the public and the Army's consideration of the public concerns.

b. If the Army does not provide an opportunity for involvement of interested parties in the development of the Administrative Record, persons challenging a response action may argue that judicial review should not be limited to the Record. The Army must, therefore, make the information considered or relied on in selecting a response action available to the public, provide the appropriate opportunity for public comment on this information, place comments and information received from the public in the Record, and reflect in the Record the Government's consideration of this information. Public availability of the Record is discussed in paragraph 4-13.

4-5. Procedures for Establishing the Administrative Record.

a. IAW CERCLA, the NCP, and various referenced guidance documents, a simple and comprehensive system has been developed for establishing and maintaining the Administrative Record and Record files for all USACE geographic districts performing FUDS HTRW or OE projects and all civil works districts that are taking the lead for FUDS projects within civil works boundaries. This system will also be used when a USACE district enters into an agreement with the lead agency to take responsibility for establishing and maintaining the Administrative Record for environmental restoration activities being executed. This system permits DOD to achieve the judicial review and public participation goals of the Administrative Record by the most efficient and practical means.

b. The Administrative Record file should be distinguished from the Administrative Record. The Record file refers to the documents as they are being compiled and may be thought of as a holding file. Until a response action decision has been selected, there is no complete Administrative Record for that decision. Thus, to avoid creating the impression that an Administrative Record is complete at any time prior to the final decision, the set of documents compiled for the response action is referred to as the Administrative Record file or Record file, rather than the Administrative Record.

c. It is the responsibility of the district where the PM resides to establish and maintain the Administrative Record for each FUDS HTRW or OE project. When performing HTRW work at a FUDS property and OE is found, a separate Administrative Record for the OE is required. When a removal or remedial response action is being executed under the Installation Restoration Program or the Base Realignment and Closure Program, the active installation on which the contaminant is found is responsible for establishing and maintaining the Administrative Record unless a USACE district enters into an agreement to carry out this responsibility as stated in paragraph 4-5a.

d. The PM is responsible for ensuring that each Administrative Record has an index and a table of contents for ease of locating the desired documents. Refer to paragraph 4-7 and appendices M and N, respectively, for specific procedures.

e. In general, every decision document (e.g., ROD for a remedial response action or Action Memorandum for a removal response action) must be supported by an Administrative Record. FUDS property cleanups may be broken up into distinct response actions. At a given FUDS property, this may include several removal and/or remedial response actions for various areas within the FUDS property. For every removal response action or remedial response action, a separate Administrative Record must be compiled.

f. Information relevant to more than one response decision, such as an SI report or a PAE report to include supporting historical evidence, may be placed in the Record file for an initial response action and incorporated by reference in the indexes of subsequent Record files for that FUDS property.

4-6. Compilation.

a. The Administrative Record file should be compiled when the FUDS project is initiated as relevant documents on the response action are generated or received. Only final versions of documents which form the basis for the selection of a response action which are clearly relevant and nonprivileged will become part of the Administrative Record, as specified in paragraph 4-2. These documents will be entered into the index and made available to the public as soon as possible. For example, the RI/FS work plan, summaries of data, the RI/FS released for public comment, the Proposed Plan, any public comments received on the RI/FS and the Proposed Plan, the EE/CA and EE/CA-related documents, as well as USACE's responses should be placed in the Record file and made available to the public as soon as they are generated or received.

b. Only reproduced copies of the original documents will be placed in the Record file. The original documents will be maintained in the FUDS project file. When there are questions regarding whether particular documents should be included in the Administrative Record, such documents can be segregated and reviewed at regular intervals with Office of Counsel and other appropriate offices, as described in paragraph 4-2.

c. Documents relevant to the response selection but generated or received after the decision document for the selection of a response action is signed should be placed in a postdecision document file and may be added to the Administrative Record file in certain circumstances, as explained in paragraph 4-12.

4-7. Index and Table of Contents.

a. Each Administrative Record must be indexed and have a table of contents. The index plays a key role in enabling both the Army and members of the public to help locate and retrieve documents included in the Record. In addition, the index can be used for public information purposes for identifying documents located elsewhere, such as related technical literature used

for research purposes. A Data Element Definition Index is provided at appendix O. The information listed in this appendix should be keyed in to the data base for indices on every document included in the Administrative Record. The table of contents also serves as an overview of the history of the response action at the FUDS project. A model table of contents is provided at appendix N. This model can be used as a guide in developing individual tables of contents for Administrative Records for specific FUDS projects.

b. The Administrative Record index provides the Army with a degree of control over documents located at or near the FUDS project. The creation of an index will prevent persons from altering the Record simply by physically adding documents to or removing documents from the Record file.

c. Documents related to the selection of the response action being received throughout the FUDS project phases should be placed in the Administrative Record file at regular intervals to facilitate public review and input. Concurrently, the table of contents and index should also be updated.

4-8. Administrative Records Coordinator (ARC).

a. Each USACE district responsible for the Administrative Record for a FUDS HTRW or OE project will appoint an ARC early in the commencement of work at the FUDS project. This early appointment is important to ensure that the appropriate documents are included in the Administrative Record file as they are being created. When appropriate, this work may be performed as a collateral duty in those districts with a very small environmental restoration workload. The ARC generally has the responsibility for ensuring that the Administrative Record files are compiled and maintained according to this guidance and in close coordination with the PM who has overall responsibility for the Administrative Record. The ARC will not be responsible for deciding which documents are included in a Record file. Those decisions should be made in coordination with the on-scene coordinator, PMs, Office of Counsel, and any other related offices. As stated in paragraph 4-3a, the Office of Counsel has the lead responsibility for making final determinations on which documents will be included in the Administrative Record. The ARC duties include:

- (1) Developing procedures for creating Record files.
- (2) Ensuring that the public is notified that the Administrative Record file is available for inspection.
- (3) Ensuring that a copy of the Administrative Record file is available at or near the FUDS project.

- (4) Attending the reading area at the district's office during public viewing of the Administrative Record file to ensure safe keeping of the documents.
 - (5) Coordinating efforts to obtain the necessary documents.
 - (6) Indexing the Administrative Record file and preparing a table of contents.
 - (7) Updating the Administrative Record file and indices on a periodic basis.
 - (8) Ensuring availability of the Administrative Record file for copying.
 - (9) Ensuring that sampling and testing data, quality control and quality assurance documentation, and chain-of-custody forms are available for public inspection when these documents have been included by reference only.
 - (10) Coordinating with Office of Counsel on questions of relevance and privilege or confidentiality of documents submitted for the Record files.
 - (11) Arranging for production and presentation of the Administrative Record to court when necessary for judicial review.
 - (12) Arranging for presentation of the Administrative Record for audit purposes.
 - (13) Maintaining the confidential portion of the Record files, if necessary.
- b. Responsibility for designating the ARC resides with the PM as specified in paragraph 4-5. This responsibility includes the requirement to establish a manpower space and funding of the position unless the requirement will be accomplished through contract support.
 - c. If the way the Administrative Record was compiled and maintained is questioned in litigation, the ARC may be called upon to prepare an affidavit or testify about those procedures. Therefore, the ARC should be familiar with the procedures associated with the Administrative Record, and be qualified to fulfill the responsibilities outlined above. This does not imply that the ARC would be required to testify as to the content of the documents contained in the Administrative Record; rather, only the procedures followed for its compilation and maintenance.

4-9. Maintaining the Record.

- a. The official Administrative Record file will be maintained at the district which has PM responsibility for the response action. A duplicate copy of the file will be located at or near the FUDS project. The public should be provided access to the file at both locations. Procedures for

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a Document Reading Room, to be located at the district's office, will be established by each district to ensure the integrity of the file is maintained and orderly public access to the Record files. It may be necessary to contract for space or seek an agreement with a local government, community center, or library to use their facility as a repository for public viewing of the duplicate copy (located at or near the FUDS project) of the Administrative Record file.

b. In establishing public access procedures for the Document Reading Room, the security and integrity of the Record files must be maintained to the extent practicable. The ARC will maintain the reading room and periodically review the Record file to ensure the integrity of the documents. Visitors should be able to view the Record file during reasonable hours (e.g., Monday-Friday, 9:00 a.m. - 4 :00 p.m.). The public reading area should include, where feasible:

- (1) Administrative Record file.
- (2) Access to a copier.
- (3) Sign-in book.

c. Controlled access to the files is accomplished by use of a visitor sign-in book which may help to minimize instances in which documents are lost or damaged. The sign-in book provides documentation of the Government's efforts to provide public access to the Record files. Pertinent information recorded in the book could include:

- (1) Date of visit.
- (2) Name.
- (3) Affiliation.
- (4) Address.
- (5) Phone number.
- (6) FUDS project documents viewed.
- (7) Cost of copied materials (if applicable).

d. Since documents in the Record file should be complete, properly organized, and legible, the integrity of the Record file must be maintained. Storage and reading areas should be supervised by the ARC to maintain proper security. Documents should not leave the document room or be left unattended. The ARC should check the order of the documents after they are viewed by the public to be certain that all documents have been returned intact.

e. The Administrative Record file located at a local repository at or near the FUDS project should be handled with similar care. A cover letter should accompany the Administrative Record file when the Record is initially provided to the local repository. This letter should explain the purpose of the Administrative Record, what it consists of, the public's right to review it, and information on how this Record should be maintained. A model transmittal cover letter is provided at appendix P for this purpose. Appendix Q contains a model document transmittal which can be used to obtain a receipt acknowledged response from the local repository receiving the Administrative Record file. If possible, the Administrative Record file should be treated as a noncirculating reference; it should not leave the local repository except under supervision. The phone number of the ARC should be provided to the Administrative Record file users and to the manager of the local repository so that problems can be identified and resolved. This information can be included in an information fact sheet accompanying the Administrative Record file (see appendix R). In addition, the ARC should plan periodic reviews of the Administrative Record file at the local repository to ensure that it remains complete and intact.

4-10. Contents of the Administrative Record. The documents listed below will be considered for inclusion in the Administrative Record. Some of them, however, may not be included depending on a review by the on-scene coordinator, PM, Office of Counsel, and other associated offices (see appendix K, Selecting Documents for the Administrative Record). The term "document" covers a variety of written material, such as pieces of correspondence, data reports, assessments, plans, newspaper articles, notices, and fact sheets. The two primary purposes for establishing the Administrative Record, as specified in paragraph 4-2, should be observed when selecting documents for inclusion.

a. Correspondence related to response action basis - letters, memoranda, and records of conversations, including responses to significant comments from the public.

b. ASRs - historical archival data on previous HTRW and OE response actions at the FUDS property. All factual historical documentation collected in support of the report will be included.

c. FUDS property photographs and maps - may include variously sized maps, photographs, and drawings.

d. FUDS property descriptions and chronologies.

e. Reference documents - reference and research papers used in the course of research to determine previous HTRW/OE response actions at the FUDS property.

f. Federal, state, and local technical records.

g. INPR.

- h. Sampling and analysis data and plans.
- i. Work plans, site safety and health plans, and progress reports, whether prepared by the Government or contractor.
- j. Applicable or Relevant and Appropriate Requirements (ARARs) - Under section 121, CERCLA, these include any proposals and determinations of which laws, regulations, standards, and requirements are ARARs for a particular response action. Correspondence from regulatory agencies on these matters may also be appropriate to include. Inclusion will be based on a determination made by the Office of Counsel as specified in paragraph 4-2.
- k. Anomaly Review Board Findings.
- l. EE/CA.
- m. EE/CA Approval Memorandum.
- n. EE/CA Action Memorandum (including all public comments and responses to them).
- o. RI Report.
- p. Health and Endangerment Assessments (including human health or ecological risk assessments, lead-based paint or asbestos surveys).
- q. FS Reports.
- r. Proposed plans for remedial/removal response action.
- s. ROD (including all public comments and responses to them).
- t. CRP.
- u. News Clippings and Press Releases.
- v. Public Meeting Minutes/Transcripts, including minutes of RAB meetings.
- w. Fact Sheets/Newsletters.
- x. Congressional transcripts and testimonies.
- y. Published Congressional hearings.

z. Real Property Title Search documents.

aa. Approved Real Estate findings and determinations (include relevant outgrants, Environmental Baseline Studies, Findings of Suitability for Transfer or Lease, reports of Access/Availability, and disposal or transfer documents, including SF-118s).

4-11. Inclusion of Documents by Reference Only.

a. Certain documents which are included in the Administrative Record do not have to be maintained at the local repository because of the nature of the documents and the burden associated with maintaining such documents in multiple locations. These documents, however, must be incorporated in the Administrative Record by reference (i.e., in the index but not physically in the Record file), and the index must indicate where the documents are publicly accessible. Where a document is listed in the index but not located at or near the FUDS project, the Army must, upon request, make the document available to the public by including the document in the Administrative Record. This guidance applies to verified sampling data, chain-of-custody forms, and additional guidance and policy documents. It does not apply to documents marked with a security classification, such as "confidential" or "secret," nor does it apply to documents marked with For Official Use Only (FOUO) or privileged documents.

b. Unless requested, the following types of documents do not have to be located in multiple locations:

(1) Verified sampling data may be left in its original storage location. Data summary sheets, however, must be located in the Record file. The index must list the data summary sheets, reference the underlying verified sampling data, and indicate where the sampling data can be found.

(2) Chain-of-custody forms may be left in the original storage location. The index must reference the chain-of-custody forms and indicate their location.

(3) When a confidential or FOUO document is included in the Record file, it should be maintained IAW the appropriate security regulations. The index should identify only the title and/or any other unclassified portions of the document. In some cases, historical records used in the research to determine FUDS property conditions may have been classified at one time. However, because of the length of time from the original classification, classifiers may decide to change the classification or you may request a declassification when appropriate. Classified documents placed in the Administrative Record will be maintained IAW AR 380-5 and any local supplements thereto.

(4) Some documents in the Administrative Record file may be protected from public disclosure on the basis of an applicable privilege. Applicable privileges may include, but are not

limited to, attorney-client communications; attorney work product; trade secret or confidential business or financial information; the deliberative process information, which includes pre-decisional communications expressing opinions, advice, analysis, and recommendations of staff or contractors to agency decision-making officials; Privacy Act information; procurement source selection or procurement integrity information; or national security classified information.

(5) Guidance and policy documents need not be physically included in the Record file, but those guidance or policy documents considered or relied on in selecting the response action must be listed in the index to the Administrative Record along with their location and availability.

(6) Publicly available technical literature that was not generated for the FUDS project at issue, such as engineering textbooks, articles from technical journals, etc., does not have to be located at or near the FUDS project. The document must be clearly referenced in the index unless it has been referenced in a document which is already included in the index.

4-12. Postdecision Information. In all cases, documents generated or received after signing the decision document should be kept in the FUDS project files. In general, postdecision documents should not be added to the Administrative Record file. Since the Administrative Record contains the information which was considered or relied on in selecting the response action, documents generated or received after the response decision should not be included in the Record file. Such documents may, however, be relevant to later response decisions and become part of a later Administrative Record. Some exceptions, however, apply to the following situations where postdecision documents may be added to the Record:

a. Where a decision document does not address or reserves a portion of the decision to be made at a later date. For example, a decision document that does not resolve the type of treatment technology. In such cases, the PM should continue to add to the Record file documents which form the basis for the unaddressed or reserved portion of the decision.

b. Where there is a significant change in the selected response action. Changes that result in a significant difference to a basic feature of the selected response action with respect to scope, performance, or cost may be addressed in an explanation of significant differences.

c. Where the changes are so significant that they fundamentally alter the very nature or basis of the overall response action. Such changes will require an amended decision document.

d. Where comments containing significant information are submitted by interested persons after the close of the public comment period. The PM must consider such comments only to the extent that their comments contain significant information not contained elsewhere in the Record file which could not have been submitted during the public comment period and which substantially support the need to significantly alter the response action.

e. Where the Army holds public comment periods after the selection of the response action.

4-13. Public Availability.

a. Section 113 (k) of CERCLA and NCP subpart I (40 CFR 300.800 et seq.) require that the Administrative Record be available to the public. In satisfying this provision, the Government must comply with all relevant public participation procedures outlined in sections 113 (k) and 117 of CERCLA.

b. The availability of the Administrative Record will vary depending upon the nature of the response action. Different procedures are outlined below for remedial and removal response actions. In all cases, the PM, in coordination with the geographic district PAO, should publish a notice of availability of the Administrative Record when the Record is first made available for public inspection at the agency office and in the vicinity of the FUDS project at issue. The notice should explain the purpose of the Administrative Record, its location and availability, and how the public may participate in its development.

c. The notice should be published in a major local newspaper of general circulation. The newspaper notices should be distributed to persons on a public affairs mailing list for the FUDS project. Publication of the notice should be the responsibility of the geographic district PAO and should be done in coordination with the on-scene coordinator, if any, and the PM. A copy of the notice of availability and list of recipients should be included in the Record file. Appendix S contains a model Notice of Availability.

d. This public notice may be combined with other notices for the same FUDS project, such as a notice of availability of the local information repository, if they occur at the same time. Additionally, the public can be informed through existing special notices, newsletters, and fact sheets.

4-14. Remedial Response Actions. The Administrative Record for a remedial response action must be available for public inspection when the RI begins. For example, when the RI/FS work plan is approved, the PM, in coordination with other team members, must place documents relevant to the selection of the remedy generated up to that point in the Record file. Documents generally available at that time include the PAE, the SI, the RI work plan, inspection reports, sampling data, and the CRP. The Army must continue to add documents to the Record file periodically after they are generated or received during the RI/FS process.

4-15. Removal Response Actions. Section 113 (k) (2) (A) of CERCLA requires the establishment of procedures for the appropriate participation of interested persons in the

development of the Administrative Record for the selection of a removal response action. "Appropriate" participation depends on the nature of the removal response action, as outlined below.

a. A TCRA is a removal response action for which, based on the FUDS property evaluation, it is determined that a period of less than 6 months exists before the onsite removal response action must be initiated. This category includes emergency removal response actions.

b. The Administrative Record for TCRAs must be available for public inspection no later than 60 days after the initiation of the onsite removal response action. For all TCRAs, a notice of availability of the Administrative Record must be published in a major local newspaper and a copy of the notice included in the Record file. This notice should be published at the same time that the Administrative Record is made available to the public. A period of not less than 30 days for public comment and review is required. The PM, in coordination with the geographic district PAO, must provide formal written responses to all significant comments received during the public comment period and place the comments and the responses to them in the Administrative Record. If a public meeting is held to discuss ongoing removal response actions, an official transcript of the meeting, recording all questions and responses, will be documented and made a part of the Administrative Record.

c. A non-time-critical removal response action is a removal response action for which, based on the FUDS property evaluation, the lead agency determines that a planning period of at least 6 months exists before the onsite removal response action must be initiated. The public comment process must be completed before initiation of the removal response action on the FUDS property, except in the event of a TCRA.

d. For non-time-critical removal response actions, the Administrative Record file must be made available for public inspection when the EE/CA is made available for public comment. A notice of the availability of the Record file must be published in a major local newspaper and a copy of the notice included in the Record file.

e. A public comment period on the EE/CA of not less than 30 days must be held so that interested persons may submit comments on the response selection for the Record file. The Army must respond to all significant comments received during the public comment period and place the comments and the responses to them in the Administrative Record file. If a public meeting is held to present the EE/CA, an official transcript of the meeting, recording all questions and responses, will be documented and made a part of the Administrative Record.

4-16. Relationship to Modern Army Recordkeeping System (MARKS).

a. MARKS classification standards relating to the Environmental Restoration Program have been developed to preserve all records necessary to protect the legal and financial interests

of the Army. This action will facilitate the documentation of USACE efforts for future discussion with regulators, to respond appropriately to legal actions and cost recovery or contribution claims, and to initiate cost recovery or contribution claims against other parties.

b. HQUSACE is moving from the Corps of Engineers Electronic Recordkeeping Information System (CEERIS) to Electronic Document Management System (EDMS). New plans call for obtaining purely commercial off-the-shelf packages for EDMS software capabilities which will integrate document management, electronic recordkeeping, and workflow. The new system will be called Corps of Engineers Electronic Document Management System (CEEDMS). CEEDMS will apply to certain categories of documents produced under the Environmental Restoration Program. DA is also developing a central environmental restoration data base called the Installation Restoration Information System (IRIS). All installations collecting data with Base Realignment and Closure or Environmental Restoration money will be expected to begin using IRIS when the system is implemented. IRIS will serve as a central storage location for all critical geotechnical, spatial, and chemical environmental restoration data. IRIS will be available to all users via the Internet. Until IRIS is implemented, it is strongly recommended that installations that are using USAEC's Installation Restoration Data Management Information System (IRDMIS) for electronic storage of environmental data continue to do so. For those installations not using IRDMIS, every effort should be made to save electronic data generated by the laboratories or the prime contractors. This will ensure that data will be available in an electronic format for future input into IRIS. Any implementation of electronic recordkeeping for document management within USACE must comply with CEEDMS and IRIS standards.

c. All files for FUDS HTRW and OE projects will have MARKS numbers assigned to their documents IAW AR 25-400-2. The Administrative Record is a permanent record. The MARKS number is 200-1e. Documents for the Administrative Record, insofar as this procedure is concerned, will have MARKS numbers but will be arranged IAW the recommended file structure as outlined in appendix K. Documents can be found by MARKS numbers in the index. This EP is in no way intended to supersede, circumvent, or in any other way misuse the established recordkeeping regulations.

4-17. Filing and Binding.

a. Since the Administrative Record cannot be created until coordinated decisions are made concerning the appropriateness of particular documents, all potential Administrative Record documents will be maintained in the Administrative Record file by the PM. The Administrative Record file, as described in paragraph 4-5, is the file containing Administrative Record documents as they are created. These documents will be contained in file folders marked IAW the file structure as outlined in appendix K. As can be seen when comparing the file numbers in appendix K, the Model FUDS Project File Structure, to those in appendix N, the Model Table of Contents, it is clear that the documents that comprise the Administrative Record total about 30 percent of the entire FUDS project file.

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b. Because the Administrative Record is a specialized subset of the entire FUDS project file and because it is intended for frequent public use, ease of finding and durable binding are imperative. Generally, documents filed by the MARKS are filed in file folders. To prevent loss and maintain file integrity, documents in the Administrative Record will be filed in binders or other fastening folders which secure all pages, with a table of contents in the front of each volume. A separate index volume will enable the searcher to locate specific documents through a variety of index entry arrangements.

c. The index will be maintained in a 1-inch binder. The binder will be labeled on the side and on the front with the FUDS project number, FUDS project location (area within the FUDS property if applicable), Administrative Record Index, and the date, as well as the name of the responsible USACE district. The index should include the following information for each document:

(1) Document Number - a unique sequential number (place this number on the document as well).

(2) Document Date - date of the document.

(3) Document Title - a thorough identification of the actual document with substantive information. Include sufficient information to ensure that the document cannot be confused with another (e.g., the title "report" would be insufficient).

(4) Author - Name and affiliation.

(5) Recipient - Name and affiliation.

(6) Document location.

(7) Document type.

(8) Number of pages.

(9) MARKS number - Include MARKS number as appropriate on all correspondence and maintain IAW disposition instructions.

d. The table of contents will be maintained in its entirety (covering all volumes of the Administrative Record file) in the index binder. A table of contents will also be maintained for each volume of the Administrative Record file. It will be arranged in an organized file structure of 11 major divisions (see appendix K). Within each major division is a series of minor divisions. The records for each FUDS HTRW or OE project in the Army will be arranged according to this

hierarchy of major and minor divisions (see appendix K - Model FUDS Project File Structure). Numbers within each minor division will be mnemonic (depending on length and content of subdivision), that is, the same document type will bear the same minor division number throughout. For example: major division 2 is Removal Response, minor division 2.1 is Correspondence, minor division 2.2 is Sampling and Analysis Data and Plans, minor division 2.3 is Scopes of Work/Contractual Documents; major division 3 is Remedial Investigation, minor division 3.1 is Correspondence, minor division 3.2 is Sampling and Analysis Data and Plans, minor division 3.3 is Scopes of Work/Contractual Documents.

e. Correspondence, as a document type, will always appear as the "1" minor division. Some divisions will have fewer minor divisions or will have content that does not "fit" the same headings, thus disrupting the mnemonic quality. Where possible, though, the same structure will apply. Appendix J shows the 11 major divisions that make up this file structure.

4-18. Audit Procedures.

a. The documents comprising the Administrative Record file will be subject to audit and therefore should be maintained as outlined in this EP. The purpose of an internal management control review is to identify, report, and make appropriate recommendations regarding the elimination of deficiencies in the establishment and/or maintenance of the Administrative Record. The internal review will protect the interests of the Army in the event that the Administrative Record is subject to review or audit. Further, the audit is necessary to ensure that the Administrative Record is maintained in proper order when subject to judicial review. As stated in paragraph 4-3, since judicial review of issues concerning adequacy of any response action is limited to the Administrative Record, it is imperative that internal reviews be performed to ensure the quality and completeness of each Record. The review may be performed by the ARC when applicable or by an internal management control monitor for the HTRW and OE programs.

b. A system of internal controls will be established at each FUDS project to monitor the Administrative Record process. To aid in the review, the following internal management control checklist should be used. Inadequate procedures or incomplete documentation will be detected by using the checklist, thereby preparing the FUDS project for an audit. This checklist can be used for routine internal examination or by an external auditor.

Internal Management Control Checklist

(1) Is the EP 1110-3-8, Public Participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS), for FUDS HTRW and OE projects in practice in your organization?

(2) Is an individual appointed ARC in writing?

(3) Are the documents created in the FUDS project file arranged according to the Model FUDS Project File Structure, appendix K of EP 1110-3-8?

(4) Are all required documents included in the Administrative Record, as described in appendix M of EP 1110-3-8?

(5) Does the Administrative Record have a Table of Contents?

(6) Does the Administrative Record have an Index? Does the Index indicate where the documents are publicly accessible?

(7) Is the Administrative Record contained in 3-ring binders or other fastening folder which secures all pages?

(8) Are the binders labeled on the side and on the front with the FUDS project number, FUDS project location, and name of responsible USACE district? Is there a Table of Contents in each binder?

(9) Has an internal procedure been established to coordinate with the Office of Counsel and others to determine which documents will become part of the Administrative Record?

(10) Is there a public Document Reading Room at the district office? Are photocopy facilities available for the public? Is controlled access to the Record files accomplished by use of a visitor sign-in book?

(11) Are public reading areas monitored to ensure property security? To the extent feasible, does the ARC check the order of the documents after they have been viewed by the public to ensure that all documents were returned intact?

(12) Are documents relevant to the response selection which are generated or received after the decision document has been signed placed in a postdecision file?

(13) Has an offsite local repository been established? Is the Administrative Record located at a local repository treated as a non-circulating reference?

(14) Has an individual been designated, in writing, as responsible for establishing and monitoring the Administrative Record at a local repository? Does the individual conduct periodic reviews of the Administrative Record at the local repository to ensure that it remains complete and intact?

(15) When sending the Administrative Record to the local repository, are the Transmittal Cover Letter and the Document Transmittal Acknowledgment used?

- (16) Have Fact Sheets been created for the local repository and the general public?
- (17) Has a Notice of Public Availability been developed to inform the public about the availability and location of the Administrative Record?
- (18) For TCRAs, is the Administrative Record available for public viewing no later than 60 days after the initiation of the onsite removal response action? Has a notice of availability been published in a major local newspaper and a copy of the notice included in the Administrative Record file?
- (19) Are formal written responses to all significant comments included in the Administrative Record?
- (20) For non-time-critical removal response actions, is the Administrative Record available for public review when the EE/CA is made available for public comment before initiation of the removal response action?
- (21) If a public meeting has been held to discuss ongoing removal response actions or the EE/CA, has the official transcript of the meeting been placed in the Administrative Record?
- (22) Is every decision document supported by an Administrative Record?
- (23) Are only reproduced or digitally scanned copies of the original documents placed in the Administrative Record file?
- (24) Are documents which are included in the Administrative Record but not maintained at the local repository near the FUDS project (because of the nature of the documents and the burden associated with maintaining such documents in multiple locations) incorporated into the Administrative Record by reference (i.e., in the index but not physically in the Record file)?
- (25) Are documents with a security classification properly marked and handled IAW AR 380-5?
- (26) Are guidance and policy documents listed in the Index to the Administrative Record along with their location and availability?
- (27) Has publicly available technical literature that was not generated for the FUDS project at issue been clearly referenced in the Index?
- (28) Is postdecision information maintained IAW paragraph 4-12 of EP 1110-3-8?

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(29) Are procedures established for the appropriate participation of interested persons in the development of the Administrative Record for the selection of a removal or remedial response action?

(30) Are MARKS numbers assigned to all files for FUDS HTRW and OE projects IAW AR 25-400-2?

c. The internal reviewer's examination is conducted for the principal purpose of certifying to the completeness and integrity of the Administrative Record for the FUDS HTRW or OE project. In so doing, the reviewer should place emphasis on significant management areas and operations to ensure that correct procedures are in place for the establishment and maintenance of the Administrative Record. The reviewer will identify, report, and make appropriate recommendations regarding conditions that cause or contribute to inefficient operations, deficiencies, and errors of omission or commission. Detailed examination of management operations will be limited to that deemed necessary based upon appraisal of the adequacy of procedures and internal controls.

d. The reviewer will review the documents that comprise the Administrative Record to ensure their inclusion. To accomplish this, the reviewer should check the contents of the Administrative Record against the Table of Contents and the Index. Random checks throughout the Index to find specific documents will reveal the adequacy and completeness of the Index and the presence of the indexed documents. Likewise, the reviewer should select documents and check their presence in the Index by the variety of entry points, i.e., key words in the title, author, receiver, etc. To determine if correct procedures are in place, the reviewer can use the Internal Management Control Checklist.

e. The Administrative Record file will be reviewed within 1 year of establishment and each succeeding year thereafter, while in public use. The implementation of sound internal controls for all FUDS projects will ensure the organization and orderliness of Administrative Record files, thereby facilitating the review process. It is the responsibility of the district to maintain its Administrative Record file in a condition for review; to prepare or reconstruct such files is not the responsibility of the reviewers. All sets of the Administrative Record file should be reviewed, those at a repository near the FUDS project and those at a public reading room at the district.

f. Deficiencies will be noted in an exit interview with the lead official for the FUDS project and then documented in a follow-up memorandum. The memorandum will state the specific deficiencies, if any, or the strengths and merits attesting to the adequacy of the Record. If deficiencies exist, the memorandum will allow sufficient time for correction. Further, the memorandum will indicate that corrective measures will be taken and implemented prior to the internal management control review the following year.

CHAPTER 5 CONCLUSION

5-1. Interrelation of Community Relations Program Elements. Perhaps the most salient feature of the well ordered community relations program, implicit throughout the discussion presented in this pamphlet, is the interrelation of its elements. Community interviews, for example, serve to highlight community concerns and issues which the CRP is developed, in part, to address. These same interviews may be helpful to the PM in his or her decision whether or not to establish a RAB at the FUDS project. If a RAB is established, the CRP must be revised to incorporate appropriate RAB information. Administrative Record documents will often be used by the RAB in its decision-making process, just as documentation generated by the RAB or by community relations activities prescribed by the CRP will become part of the Administrative Record. Interrelation of its elements clearly defines the well ordered community relations program.

5-2. Summary. As the discussion in this pamphlet of procedures for establishing and maintaining community relations programs, RABs, and Administrative Records has made clear, public participation in DERP is both legal requirement and practical necessity. The legal requirements for such participation are cited throughout the pamphlet and need not be restated here. The practical necessity for such participation if environmental restoration is to succeed is equally clear. As indicated in the overview discussion of community relations programs in chapter 2, the best community relations programs and CRPs – those that most effectively further the environmental restoration process – are community specific. This specificity cannot be achieved without substantial public participation. Just so, it is public participation in the development of the Administrative Record that lends such credibility to the Record that judicial review with respect to issues arising in relation to environmental restoration decision making can be restricted to the Administrative Record. This restriction greatly speeds the environmental restoration process. Public participation in DERP, both legal requirement and practical necessity, is essential to successful environmental restoration.

APPENDIX A
COMMUNITY INTERVIEW QUESTIONS

Name: _____

Address: _____

Telephone (H): _____ (W): _____

Wishes to join mailing list? Yes _____ No _____

1. A _____ study is being conducted at _____. Have you heard about this study? If so, do you remember when and how you learned of it?

Answer: _____

2. Have you talked with any Corps of Engineers, state, or environmental officials about the ongoing _____ study?

Answer: _____

3. If you have, were they responsive to your concerns or questions?

Answer: _____

4. What special interests or concerns do you have about _____
or the _____ study?

Answer: _____

5. Have any of your friends or neighbors talked with you to express interest or concern about the _____ study, and if so, what were their concerns?

Answer: _____

6. If you had a question or concern, what would you do? Is there someone you would call or contact?

Answer: _____

7. Would you be interested in joining a mailing list to receive fact sheets and other general information about this study?

Answer. Yes _____ No _____

8. How does the community receive information about local events and news (i.e. radio, television, newspapers)?

Answer: _____

9. Other than the mailing list, what other ways can the Corps of Engineers provide you with information and better involve you in the decision-making process at _____?

Answer:

Newspaper(s) _____

Radio/TV _____

Information Repository (suggested location) _____

Community Hotline _____

Community Meetings (suggested time and place) _____
Formal Briefings _____
FUDS Property Visits _____
Restoration Advisory Boards _____
Other _____

10. How frequently would you like to receive information?

Answer:
Monthly _____
Bi-monthly _____
Quarterly _____
Annually _____
Whenever events warrant _____
Other _____

11. Can you suggest anyone else (friend, neighbor, group, informal or formal leader) that we should contact or who might want to be included on the mailing list?

Answer: _____

12. Is there anything else you would like to mention that we have not talked about?

Answer: _____

APPENDIX B*

SUGGESTED FORMAT AND SAMPLE FOR COMMUNITY RELATIONS PLAN

B-1. SUGGESTED FORMAT

a. Overview of Community Relations Plan

Purpose: Provide a general introduction by briefly stating the purpose of the Community Relations Plan and the distinctive or central features of the community relations program planned for this specific site. Note any special circumstances that the plan has been designed to address. Do not repeat general program goals (e.g., "Keep the community informed").

Length: One paragraph to several pages.

b. Capsule Site Description

Purpose: Provide the historical, geographical, and technical details necessary to show why the site was put on the NPL.

Suggested topics-

- Site location and proximity to other landmarks;
- History of site use and ownership;
- Date and type of release;
- Nature of threat to public health and environment and
- Responsibility for site (e.g., State- or Federal-lead).

Length: One page.

c. Community Background

Purpose: Describe the community and its involvement with the site. Cover three topics:

- (1) Community Profile: the economic and political structure of the community, and key community issues and interests.
- (2) Chronology of Community Involvement: how the community has reacted to the site in the past, actions taken by citizens, and attitudes toward government roles and responsibilities. Discuss actions taken by any government agencies or government officials, such as public meetings or news releases.

* This appendix provides information originally published as appendix B of EPA Directive 9230.0-03C, Community Relations in Superfund: A Handbook, January 1992.

(3) Key Community Concerns: how the community regards the risks posed by the site or the remedial process used to address those risks. One approach: break down the analysis by community group or segment (e.g., public environmental interest groups; nearby residents; and elected officials).

In all three sections, but particularly in the last, focus on the community's perceptions of the events and problems at the site rather than the technical history of the site.

Length: From three to seven pages, depending on the history and level of community involvement in the site.

d. Highlights of Program

Purpose: Provide concrete details on community relations approaches to be taken. This should follow directly and logically from the discussion in Section C of the community and its perceptions of the problems posed by the site. Do not restate the goals or objectives of conducting community relations at Superfund sites. Instead, develop a strategy for communicating with a specific community.

Suggested

- Resources to be used in the community relations program (e.g., local organizations, meeting places);
- Key individuals or organizations that will play a role in community relations activities;
- Areas of sensitivity that must be considered in conducting community relations.

Length: One page.

e. Techniques and Timing

Purpose: State what community relations activities will be conducted at the site and specify when they will occur. Suggest additional techniques that might be used at the site as the response action proceeds, as well as when these techniques are likely to be most effective.

Length: Two to three pages. Matrix format may be suitable.

Attachments

- List of Contacts and Interested Parties¹
- Locations for Information Repository and Meetings

¹(Names and addresses of individuals should not be included in the Community Relations Plan made available in the information repository for public review. Names and addresses should, however, be compiled for a mailing list as part of the Community Relations Coordinator's files.)

B-2. SAMPLE PLAN

The following Community Relations Plan for the Sludge Pond site in Woodbury, Connecticut is intended to illustrate the suggested format and content of Community Relations Plans, as discussed in Chapter 3 of this Handbook. While the plan is based on actual community interviews conducted for a Superfund remedial site, names, locations, and technical details have been changed. The plan should be viewed as an illustration only.

* * * * *

SLUDGE POND SITE, WOODBURY, CONNECTICUT

COMMUNITY RELATIONS PLAN

a. OVERVIEW OF COMMUNITY RELATIONS PLAN

This Community Relations Plan identifies issues of community concern regarding the Sludge Pond Superfund site in Woodbury, Connecticut, and outlines community relations activities to be conducted during the site remedial investigation and feasibility study (RI/FS). In general, community concern about the site is low. Having known for almost 40 years that the site was a source of contamination, residents appear more or less resigned to its presence in their community. The start of remedial activity at the site, however, is likely to reawaken the community's concern. An effective community relations program for this site should prepare for this potential revival of community interest and attempt to educate, without alarming, residents so that they can better understand the Superfund remedial process. In particular, the community relations program for Sludge Pond should enlist the support and cooperation of the town and county officials of Woodbury. These individuals have a long-standing familiarity **with** the area and its residents and hold visible positions of responsibility within the community. They should be considered as a key resource in the effort to communicate openly and effectively with the people of Woodbury.

This draft Community Relations Plan has been prepared to aid EPA in developing a community relations program tailored to the needs of the community affected by the Sludge Pond site. EPA conducts community relations activities to ensure that the local public has input to decisions about Superfund actions and is well-informed about the progress of those actions. These sections follow:

- Capsule Site Description
- Community Background
- Highlights of Program
- Techniques and Timing
- Attachments: List of Contacts and Interested Parties, and Locations for Information Repository and Public Meeting

The information in this plan is based primarily on discussions conducted in Litchfield County, Connecticut in August, 1990. Participants in these discussions included individuals from the District Health Department, officials from the Litchfield County Office of the Connecticut Department of Environmental Protection (DEP), the first selectman of Woodbury Township, a Litchfield County Commissioner, and residents of Woodbury and Watertown Townships. *The Preliminary Investigation Report/Lewis Iron Works Site* prepared by contractors to Eastern Manufacturing Co. also provided valuable information.²

²This and other technical reports (such as the RI/FS work plan) will be made available at the information repository to be established in Woodbury. These reports will give full details of the type and extent of the problems at Sludge Pond.

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The U.S. Environmental Protection Agency (EPA) Region 1 Office has lead responsibility for managing this RI/FS. The EPA Region I Office of Public Affairs will oversee all community relations activities at the site. The Office of Community Involvement in the Ground Water Quality Division at DEP will play a major role in implementing community relations activities.

b. CAPSULE SITE DESCRIPTION

The Sludge Pond site is located on a 40-acre tract of land in Litchfield County, Connecticut, one mile south of Woodbury Township on Route 6. (Exhibits I and 2 illustrate the location of the site within the State and surrounding geographical landmarks.) To the north is Tanner Lake, used for fishing and swimming. The closest residences are approximately one-quarter mile to the northwest and west across Route 6.

From 1886 to 1945, the site was used by Lewis Iron Works, a major producer of charcoal, pig iron, and organic chemicals. Liquid tar residues from chemical processing were discharged into a two-acre depression on site, giving the area its current name of "Sludge Pond." Lewis Iron Works shut down its chemical operations in early 1944 and ceased operations entirely in 1945. Among the current owners of the site property are Eastern Manufacturing Co., whose nearby plant produces automotive parts; the Wilson Lumber Co.; and the township of Woodbury, which operated an eight-acre municipal landfill adjacent to Sludge Pond from 1961 to 1969.

In the late 1940s, shortly after the closing of the Iron Works, residents as far away as three miles from the site reported that their well water had "a chemical taste and a bad odor." Samples taken by the Connecticut Geological Study in 1949 indicated that phenol had contaminated eight private wells to the west and northwest of Sludge Pond. In the 1960s, the surface sludges on site caught fire and burned out of control for several weeks.

Limited water sampling conducted since 1980 has confirmed the 1949 findings of phenol in the groundwater. In addition, DEP found evidence of heavy metals in Sludge Pond in 1980. Heavy metals, however, were not confirmed by monitoring samples taken by EPA's Field Investigation Team in 1982 or by on-site testing conducted by Eastern Manufacturing in 1983. After private wells were tested by DEP and the District Health Department in 1980, residents were told that their water was drinkable.

Sludge Pond was proposed for the National Priorities List (NPL) in December, 1982. The site has recently been designated a Fund-lead site for the RI/FS, although enforcement proceedings are underway against Eastern Manufacturing.

c. COMMUNITY BACKGROUND

(1) Community Profile

The Township of Woodbury, named for the abundance of trees in the area, developed in the 1820s as settlers journeyed to western Connecticut in search of farmland. However, because of the town's fairly remote location, industry did not begin to develop in the area until about a half-century later. In 1882, George Lewis, an area entrepreneur, erected a blast furnace to manufacture charcoals, and the Lewis Iron Works soon became the area's largest employer.

Several Woodbury residents interviewed for this plan recalled the days when their relatives or neighbors worked at the Iron Works, and old photographs of the company's vast lumber stocks and furnace can still be seen in the local library and on the walls of the town office building.

**EXHIBIT B-1: SITE LOCATION MAP, SLUDGE POND SITE
LITCHFIELD COUNTY, CONNECTICUT**

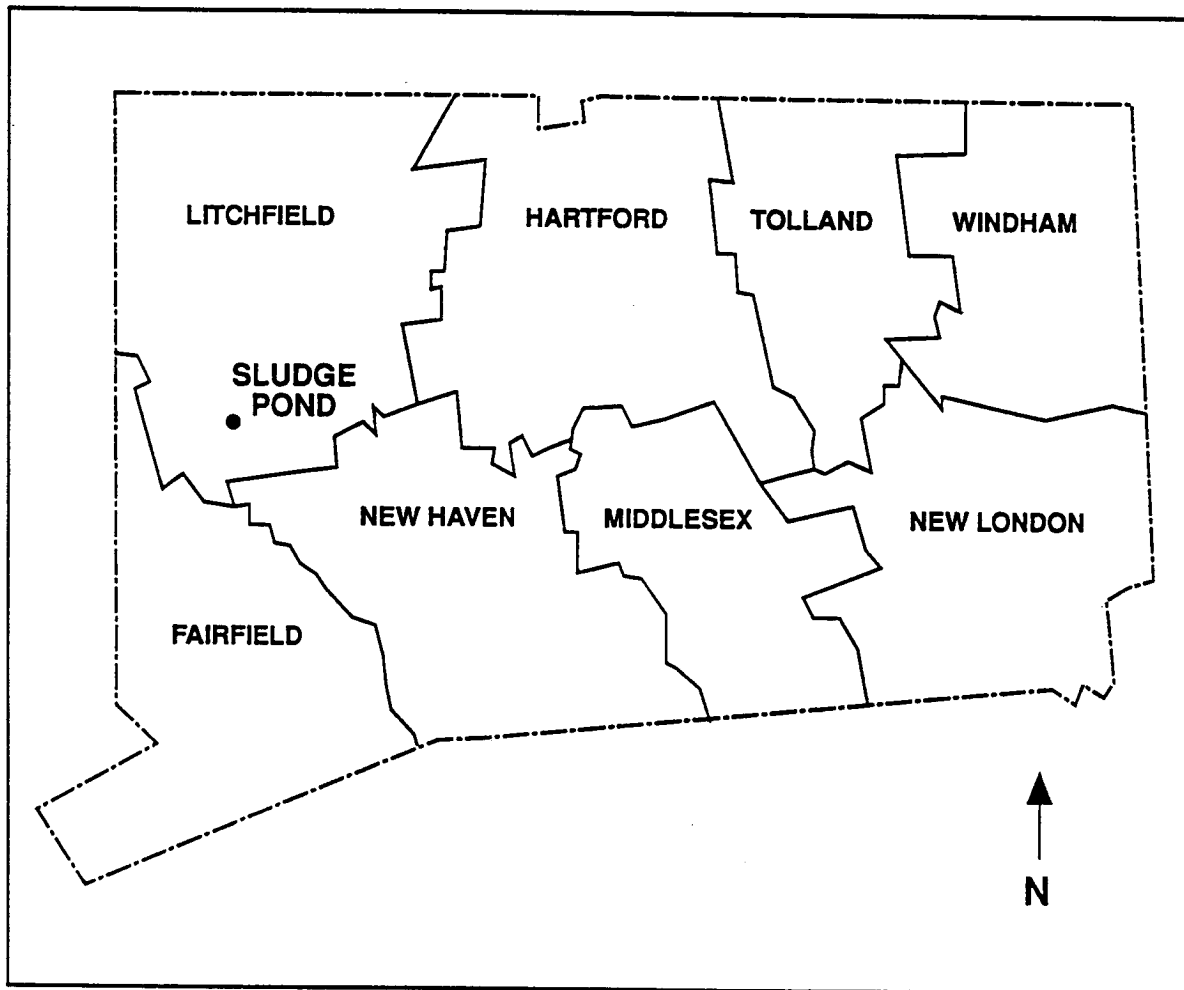
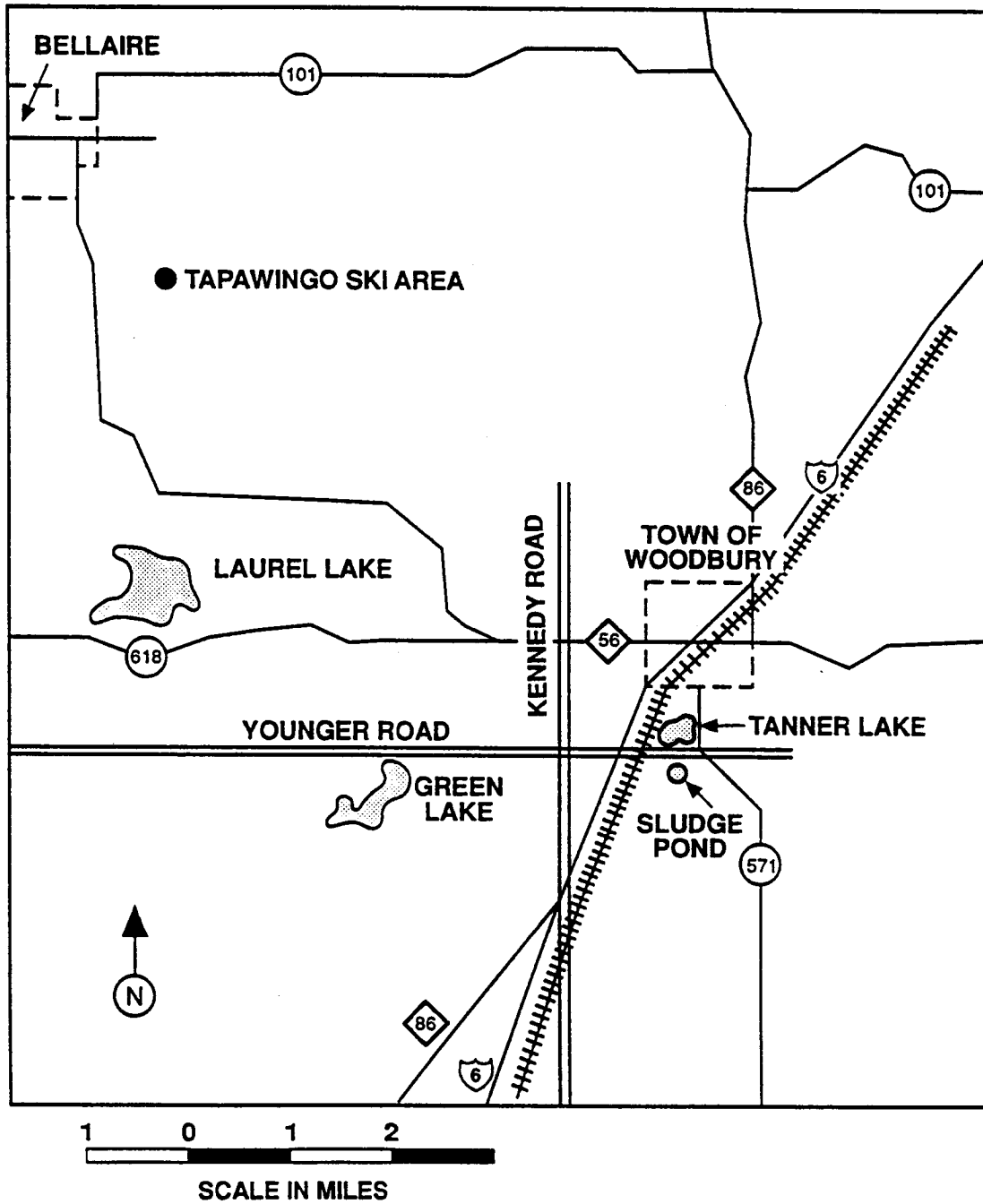


EXHIBIT B-2: SLUDGE POND SITE VICINITY MAP



Since the closing of the Iron Works, major sources of employment in the area have included light industry and fanning. Local craft industries dating from the early nineteenth century continue to flourish in the area, as do antique stores and clock shops. Dairy and poultry farms occupy a significant portion of the land in Litchfield County and nearby Hartford County.

In general, Woodbury Township remains a quiet, rural area, somewhat insulated from the industrial development to the south and east. Judging from individuals interviewed for this plan, many town members have been long-time residents in the area, and the township's small population (7,000 reported in the 1980 Census) has meant that local officials know, and are known by, most of the area's residents. A significant number of senior citizens live in the community. Aging issues and facilities for the elderly have been prominent concerns in the community, and according to the township clerk, a central meeting place in the area is the Litchfield County Senior Center.

(2) Chronology of Community Involvement

Local officials have described community reactions to the proximity of an NPL site as "quiet," particularly in the past year. The District Health Department receives only infrequent inquiries about the safety of private well water which according to users, is a brownish-orange color and stains bathroom fixtures and laundry. The last call was received at the beginning of the summer of 1985 from a prospective homebuilder who was concerned about the condition of the groundwater directly south of Sludge Pond. Because groundwater flows west from the site, and in the opinion of some local officials, is confined to a narrow finger of an aquifer, the Health Department assured the caller that his property was not threatened by contamination from the site.

The level of community concern, while never high, reached a peak in the early 1980s, when DEP analyzed sludges from Sludge Pond and water from a number of private wells. Early in 1980, a local farmer with contaminated well water wrote to the District Health Department after reading an article in the *Waterbury Republican* about the suspected hazards at the site. She was concerned because guests could not drink her water, though she herself was accustomed to its distinctive taste. When interviewed, this same resident stated that she and her husband knew about the problems with their well when they purchased their house and farm and, in fact, were able to buy the property at a reduced price because of the discolored water.

Also in 1980, the Township of Woodbury took over and began rebuilding a town water system from an independent water company. A major part of this project, which was financed through loans and grants from the Farmers' Home Administration, was the replacement of leaking wooden main pipes. Some community members also attempted to obtain a Health Department grant to have the water mains extended to the residents with private wells who had bad well water. According to a County Commissioner, obtaining funds from the Health Department for this extension required demonstrating that the water was not fit for drinking. Because this was never done, the Township was unable to finance an extended water system. While affected citizens conceivably could put in their own pipes to connect to the town water system, this option appears to be well beyond the means of individual residents.

Shortly after the site was listed on the NPL in December, 1982, the *Litchfield County Herald* ran an article identifying Sludge Pond as one of "EPA's 400 Worst." Though several residents could recall the article, the classification of Sludge Pond as a Superfund site did not particularly alarm residents or motivate them to take organized action. No community groups have been formed to participate in the investigation of the site or to voice an opinion as to how the site should or could be addressed. In general, affected residents have dealt with the problem of contaminated well water in fairly quiet and individual ways: some carry bottles of municipal water home for drinking and take extra measures (e.g., filtering and bleaching) to prevent staining of laundry. From the point of view of local officials, a far more urgent issue is the potential closure of the Litchfield-Berkshire municipal landfill after DEP found contamination in monitoring wells at the landfill. Because closure would mean that area waste would have to be transported further away, local officials are particularly concerned that some citizens will resort to dumping refuse on back roads rather than paying the higher transporting fees.

(3) Key Community Concerns

Currently, as throughout the past 10 years, community concern about contamination from Sludge Pond is fairly low, possibly because:

- Citizens have lived with the knowledge that Sludge Pond was contaminated for a long period of time.
- Citizens view the contamination primarily as a nuisance but not as a public health hazard. Residents rely on the fact that DEP and the Health Department have never declared the water undrinkable.
- Only a few residents are affected, and their houses are scattered over farmland about two miles northwest of the site. In conversations with community members, about six families were mentioned as having had problems with their private wells. At least two families have moved to homes on the municipal water supply. Another family had problems only when it installed a well before being connected to the municipal water system.

Current low level of community concern about Sludge Pond should not be construed as lack of interest. Citizens are not indifferent to the environmental problem posed by Sludge Pond; their attitude might be more accurately characterized as resigned. In their view, the problem is intractable. According to one resident, because such large quantities of sludge were once deposited on the site, it literally would take moving a small mountain to eliminate the years' accumulation of waste. Furthermore, many residents consider their community too rural and economically insignificant to command Federal attention or funds for a cleanup.

The start of the Sludge Pond RI/FS is bound to change this attitude of resignation. The arrival on site of investigation teams, as well as the discussion of alternatives during the FS, may cause people to consider that perhaps the problems at Sludge Pond can be solved and are worthy of being addressed. In developing a community relations program for this site, it is important to anticipate this potential for renewed community interest. The following kinds of concern, voiced individually and in a low-key manner during community interviews, are likely to become more visible and pressing during the RI/FS:

Property Values: Some residents have suffered losses in the market value of their property as a result of groundwater contamination in the area. When one resident put his property up for sale, he was told by the realtor that the listing had to carry a statement that his well water was contaminated. He has been unable to sell his property despite a substantial decrease in his asking price, and he has had to go into debt to purchase a new home.

Inconvenience: Contaminated well water has inconvenienced residents in a number of ways. They must carry bottled water to their homes from the homes of friends or relatives on municipal water and take extra measures with their laundry. There is also the problem of the water having a bad odor. One resident claims her plumbing has been affected by the contaminants in her water. Another resident complained of a rash that did not heal while she was using private well water, but in general, it appears that citizens regard the contamination of groundwater as a nuisance rather than a health hazard.

Follow-up with community after site work: Over the past 10 years, technical teams from EPA, DEP, the District Health Department, and Eastern Manufacturing have been in the area to sample monitoring and private wells and fence the site. Some residents complained that there was no adequate follow-up to these visits and no explanation as to the purpose or results of testing. Owners of private wells that were sampled did receive copies of laboratory slips listing the levels of various contaminants. However, they were not familiar with the types of contaminants being tested, nor did they understand how to interpret the levels detected. Local officials were also irritated that they had not been informed of the results of sampling activities.

Financing and conducting remedial work: At least one local official and one resident wondered how the investigation and possible cleanup of Sludge Pond would be financed. The official's concern was that the township could not afford remedial action at the site. At the same time, he did not consider it fair that Eastern Manufacturing, as a potentially responsible party, might be liable for remedial costs since the company had not created Sludge Pond. In general, community members do not appear to be knowledgeable about the Superfund remedial or enforcement process or its technical and legal requirements. For example, one elected official who had witnessed a technical crew on site found it difficult to understand why sampling had to be delayed until EPA-approved bottles were obtained. He was also somewhat impatient that EPA would be starting an RI of the site, when it had already been investigated a number of times.

d. HIGHLIGHTS OF PROGRAM

The community relations program at the Sludge Pond site should be designed to allow the community to learn about, and participate in, the Superfund remedial process without disrupting the community's confidence that the site poses no new or immediate hazards. To be effective, the community relations program must be gauged according to the community's need for information and its interest and willingness to participate in the remedial process.

The community relations program at the Sludge Pond site should take the following approaches:

Enlist the support and participation of local officials in coordinating community relations activities. Appropriate officials to involve in a community relations program include the Town First Selectman; the County Commissioner for Litchfield, and District Health Department officials. These officials are visible and trusted leaders in the community and are a valuable resource in EPA's effort to understand and monitor community concern. To gain the support of local officials, inform them regularly and fully of site activities, plans, findings, and developments.

Provide follow-up explanations about sampling and test results to area residents. Concise and easily-understood information should be available to all residents on the schedule of technical activities, their purpose, and their outcome. Where information cannot be released to the public, either because of quality assurance requirements or the sensitivity of enforcement proceedings, explain clearly and simply why the information must be withheld. However, community relations staff also should attempt to identify special situations or concerns where more specialized information may be required or where certain types of information are needed by single individuals or groups. In particular, owners of property where samples are taken should receive follow-up explanations of what was done and found on their land. Finally, to ensure that inquiries from the community are handled efficiently and consistently, a single EPA contact should be established for the site.

Educate area residents and local officials about the procedures, policies, and requirements of the Superfund program. To dispel some of the current confusion about EPA's purpose and responsibilities at the site, make an effort to circulate basic information to the community describing the Superfund process. Questions asked by community members during on-site discussions indicate that the following areas could receive special emphasis: scoring and ranking of NPL sites, schedule and stages of an RI/FS, and criteria used to select a cleanup alternative.

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Let the people "set the pace" for the community relations program. Be aware that Federal involvement in local issues is not always well regarded by townspeople. Federal, and even State, programs are seen as excessively bureaucratic and insensitive to the realities of local government budgets and planning. Therefore, do not "overdo" or overplan community relations activities in a way that might discourage community participation. Large, formal meetings will almost certainly be inappropriate for this community, as will activities that are planned without consulting key local officials.

e. TECHNIQUES AND TIMING

The following activities are required for the Sludge Pond site community relations program. Exhibit 3 illustrates the timing of each activity during the remedial schedule for the site.

Information Repositories/Administrative Record and Notification. Fact sheets, technical summaries, site reports (including the Community Relations Plan), and information on the Superfund program will be placed in the information repositories. An information repository will be located at the Woodbury Public Library. Details about the technical assistance grants application process will be included in the information repository. Upon commencement of remedial investigation, an administrative record file must be made available for public inspection. This file will contain information that forms the basis for the selection of a response action, including verified sampling data, quality control and quality assurance documentation, chain of custody forms, site inspection and evaluation reports, and ATSDR health assessments. It will also contain the proposed plan, as well as the Record of Decision (ROD) and supporting information. A notice of the availability of the administrative record file will be published in a major local newspaper of general circulation.

RVFS and Proposed Plan Notification and Analysis. A notice of the availability of the RI/FS and proposed plan, including a brief summary of the proposed plan, must be published in a major local newspaper of general circulation.

Public Comment Period on Draft FS Report and Proposed Plan. A minimum 30-day public comment period must be held to allow citizens to express their opinions on EPA's preferred alternative for remedial action at the Sludge Pond. Community input should be encouraged at this point by informing citizens that EPA will consider their opinions in the ultimate decision on remedial design and remedial action.

Public Meeting/Meeting Transcript. A public meeting held during the public comment period will provide an opportunity for EPA to answer questions directly and to discuss the recommended remedial alternative. According to community residents, as few as 20 or as many as 200 community residents might attend such a meeting. Therefore, planning should be flexible. This meeting might be held in the auditorium of one of Woodbury's public schools (Elementary, Middle or High School). The meeting should be coordinated with the Woodbury and Watertown Township Officers. A meeting transcript must be prepared and made available to the public.

Responsiveness Summary. This document is required as part of the ROD for the site. It should summarize public concerns and issues raised during the public comment period on the draft FS and proposed plan. In addition, the responsiveness summary should document EPA and State responses to these concerns. The ROD and responsiveness summary shall be available for public inspection and copying at or near the site prior to the commencement of remedial action. A notice of the availability of the ROD and responsiveness summary will be published in a major local newspaper of general circulation.

Revision of the CRP. This Community Relations Plan should be revised when the ROD has been issued for Sludge Pond to outline community relations activities appropriate to the remedial design and remedial action (RD/RA) phase. The revision of the CRP should:

- Update facts and verify information in the Community Relations Plan prepared for the RI/FS.
- Assess the community relations program to date and indicate if the same or different approaches will be taken during RD/RA.
- Develop a strategy to prepare the community for future roles during RD/RA and operation and maintenance.

Community interviews should be held before the Sludge Pond Community Relations Plan is revised.

Fact Sheet/Public Briefing. A detailed fact sheet describing the final engineering design must be issued, and as appropriate, a public briefing must be held prior to the initiation of remedial action.

In addition to these basic requirements for a community relations program at Sludge Pond, a number of activities will be undertaken to ensure that the community is well informed about site activities and has the opportunity to express its concerns. Activities, and their approximate timing, are as follows:

Establish an information contact: A technical or community relations staff person will be designated to respond directly to public inquiries regarding site activities. This person should coordinate with EPA Community Relations staff and the DEP Community Involvement staff in contacts with the press.

Meet with local officials and telephone them periodically: The County Commissioner and the town's First Selectman have indicated that they want to be informed about site plans and findings. Meetings with local officials should include both EPA and DEP officials and should be held at the following technical milestones:

- Completion of the final work plan;
- Completion of the draft RI/FS report; and
- Before remedial action starts.

Conduct informal meetings with residents: A meeting with residents is advisable prior to the RI and before any on-site activities involving use of earth-moving devices or other heavy machinery. The meeting should include interested citizens, the EPA Remedial Project Manager, the DEP Community Involvement Coordinator, and technical and community relations contractor assistance as necessary.

Prepare fact sheets and technical summaries: One fact sheet might be released at the beginning of the RI to inform area residents and other interested citizens about EPA's site plans and the procedures of the Superfund program. Another fact sheet (including a technical summary) might be prepared to explain the findings of the RI and to outline each of the remedial alternatives considered for the Sludge Pond site. A detailed description of EPA's preferred remedial alternative(s) should also be provided. In addition, each fact sheet should list the location of information repositories where information is available for public review.

Provide news releases to local media: Prepared statements might be released to local papers, such as the *Litchfield County Herald* and the *Waterbury Republication* and to local radio and television stations to announce discovery of any significant findings at the site during the RI/FS or to notify the community of any public meetings. Additional news releases are advisable at the following milestones:

- When the draft FS report is completed; and
- Before remedial action starts.

Addresses and phone numbers of local newspapers are included in Attachment A.

EXHIBIT B-3: TIMING

Community Relations Technique	Completion of the Work Plan	During RI	Completion of RI	During FS	Completion of Draft FS	Completion of Final FS Report	Start of Remedial Action
1) Information Repository/ Administrative Record	■			Update as needed			■
2) Naming of Information Contact	■			Update as needed			■
3) Meetings with Local Officials	■	■					■
4) Telephone Contact with Local Officials	■			Provide as needed			■
5) Informal Discussion with Residents	■	■					
6) Fact Sheets/Technical Summaries		■	■			■	
7) News Releases	■			Provide as Needed	■	■	■
8) 30-Day Public Comment Period						■	■
9) Public Meeting/Transcript						■	
10) Responsiveness Summary							■
11) Revision of CRP							■
12) Fact Sheet/Public Briefing							■

ATTACHMENT A
LIST OF CONTACTS AND INTERESTED PARTIES

A. Federal Elected Officials

(names and addresses) (phone)

B. State Elected Officials

(names and addresses) (phone)

C. Local Officials

(names and addresses) (phone)

D. U.S. EPA Region I Officials

(names and addresses) (phone)

E. State and Local Agencies

(names and addresses) (phone)

F. Community Organizations, Environmental Groups, and Citizens' Groups³

(names and addresses) (phone)

G. Media

(name and addresses) (phone)

³ Names and addresses of private citizens should not appear in the Community Relations Plan that is released to the public. However, these names should be placed on a mailing list that is compiled for the site. To protect the privacy of individuals, this mailing list is compiled for the sole use of the lead agency. However, where a federal facility is the lead agency, EPA may wish to see the mailing list

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ATTACHMENT B

**LOCATIONS FOR INFORMATION
REPOSITORY AND PUBLIC MEETING**

Information Repository:

Woodbury Public Library (203) 246-4567
202 W. State Street
Woodbury, Connecticut 06798

Hours:

Mon-Fri: 9:00 am to 9:00 pm
Sat: 9:00 am to 5:00 pm
Sun: 12:00 noon to 5:00 pm

Meeting:

Woodbury Public Schools (203) 246-1234
Elementary School
231 Chapel Street
Woodbury, Connecticut 06798

Middle School (203) 246-2468
105 E. Main Street
Woodbury, Connecticut 06798

High School (203) 246-1359
414 W. Main Street
Woodbury, Connecticut 06798

Woodbury Township Office (203) 246-4568
(basement of Woodbury Public Library)
202 W. State Street
Woodbury, Connecticut 06798

APPENDIX C
SAMPLE RAB PUBLIC NOTICE

Public Notice
(Name of U.S. Army Corps of Engineers (USACE) District)
Formation of Restoration Advisory Board (RAB)
Membership Solicitation

The Department of the Army recognizes the importance of stakeholder participation in the Defense Environmental Restoration Program. Therefore, (name of district) is announcing the establishment of a RAB. The RAB is being created in order to improve public participation by involving the community in the environmental restoration of the Formerly Used Defense Sites property at (name of FUDS property).

The RAB will include community members who reflect the diverse interests of the local community. RAB members will be asked to review and comment on plans and technical documents relating to the ongoing environmental studies and restoration activities at (name of FUDS property). RAB members will have the opportunity to provide comments that may accelerate the restoration. Members will also be expected to serve as voluntary liaison between the community and the USACE district and be available to meet with community members and/or groups. Community RAB members will receive no compensation for their service. RAB meetings will be open to the public.

Community interest forms can be obtained by contacting:
(List name(s), title, address, and telephone number of contact)

Members will be expected to serve a 1- to 2-year term and attend RAB meetings regularly. Forms will be reviewed by the selection panel. The selection panel will make recommendations to the district Commander for approval of RAB members. The selection panel members will be representatives from the (name of district), the (name of state environmental agency), the community, and the U.S. Environmental Protection Agency, as appropriate. To qualify, interested parties must be local residents of (name of cities or counties) who are affected by (name of FUDS property).

The initial meeting to form the RAB will be held (list location, date, and time). For additional information, please contact (name, address, and telephone number of contact).

APPENDIX D
SAMPLE RAB COMMUNITY INTEREST FORMAT

Community Interest Format
(Name of FUDS Property) Restoration Advisory Board (RAB)

RAB members are volunteering to serve a 1-to 2-year term and to attend all RAB meetings. Duties and responsibilities will include reviewing and commenting on technical documents and activities associated with the Defense Environmental Restoration Program at (name of FUDS property). Technical experts will be made available to the RAB. Members will be expected to be available to community members and groups in order to facilitate the exchange of information and/or concerns between the community and the RAB. RAB community members can expect to devote approximately (number of hours/days) per year to the RAB. RAB members will receive no compensation for their service.

Priority for RAB membership will be given to local residents who are impacted/affected by the (name of FUDS property).

Name: _____

Address: _____
Street Apt # City State Zip

Phone: () () ()
Daytime Home Fax

1. Are you affiliated with any group related to environmental restoration activities? If yes, list the group and your position, if applicable.
2. Briefly state why you would like to participate on the RAB.
3. What experience have you had working as a member of a diverse group with common goals?
4. The community co-chairperson will be selected by community members of the RAB. Please indicate whether or not you are interested in being considered for the community co-chairperson position on the RAB.

_____ Yes, I would like to be considered.

_____ No, I would not like to be considered.

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5. Are you willing to serve as a volunteer on the RAB?

_____ Yes, I am willing to serve.

_____ No, I am not willing to serve as a volunteer.

6. By submitting this form, you are indicating that you are aware of the time commitment which this appointment will require of you.

Privacy Act Notice

Authority: 10 U.S. Code (USC) 2705.

Principal Purpose: To identify members of the local community who are interested in serving on the RAB.

Routine Uses: The requested information will be used to develop a list of interested persons from which the community members of the RAB will be selected. The information will also be used by the Army to contact the individuals who are selected.

Disclosure of the requested information is voluntary. Failure to provide all the requested information may prevent selection to serve on the RAB.

Applicant Signature

Date

APPENDIX E
SAMPLE RAB LETTER OF INVITATION

Dear (Community Member):

The Department of the Army recognizes the importance of stakeholder participation in the Defense Environmental Restoration Program. Therefore, (name of district) is announcing the establishment of a Restoration Advisory Board (RAB). The RAB is intended to improve public participation by involving the community in the restoration decision-making process.

The RAB will include community volunteer members who reflect the diverse interests of the local community. RAB members will have an opportunity to provide comments on restoration activities. RAB community members can expect to spend (number of hours/days) per year supporting the RAB.

RAB members will be asked to meet regularly to review and comment on technical documents and plans relating to the ongoing environmental studies and restoration activities at (name of FUDS property). RAB members will be expected to serve as liaison with the community and be available to meet with community members and groups. Members will be expected to serve a (state length of service) term. All RAB meetings will be open to the public.

If you are interested in serving on the RAB for (name of FUDS property), please complete the enclosed form and return it to the following address not later than (deadline for applications):

(Name, address, and phone number of contact)

Forms will be reviewed by the RAB selection panel. The selection panel will submit recommendations for RAB membership to the district Commander for approval. The RAB selection panel will be comprised of representatives from the (name of district), the community, the (name of state agency), and the U.S. Environmental Protection Agency, as appropriate.

Sincerely,

(Name of Panel Member)

Enclosure

APPENDIX F
SAMPLE RAB FACT SHEET

Fact Sheet
Restoration Advisory Board
(Name and Location of FUDS Property)

Background

The U.S. Army Corps of Engineers (USACE), (name of district), is pursuing environmental restoration activities at (name of FUDS property) as part of the Defense Environmental Restoration Program. (Provide a brief description of the response actions projected at the FUDS property.)

What is a Restoration Advisory Board?

A Restoration Advisory Board (RAB) is an advisory body designed to act as a focal point for the exchange of information between (name of district) and the local community regarding environmental restoration activities. The RAB is intended to bring together community members who reflect the diverse interests within the local community, enabling the early and continued two-way flow of information, concerns, values, and needs between the affected community and the district.

RAB members will be asked to meet regularly to review and comment on technical documents and plans relating to the ongoing environmental studies and restoration activities at (name of FUDS property). Members will be expected to serve as liaison with the community and be available to meet with community members and groups. Membership terms will be decided by the RAB. All RAB meetings will be open to the public. Technical support staff will be available to provide informational support and explanation to RAB members.

How to Become a RAB Member

Community members interested in finding out more about the RAB are invited and encouraged to attend a community meeting. (Name of district) will conduct this meeting on (date and time). At the meeting, you will learn about the purpose of the RAB and RAB membership opportunities and responsibilities and will hear an update on the status of restoration activities and future plans. RAB membership applications will be available at the community meeting. The community meeting will be held at the following address:

(Location, address, date, and time)

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If you have questions about the RAB or are interested in applying for RAB membership, community interest forms may also be obtained by contacting:

(List name, title, address, and telephone number of contact)

All community interest forms must be received by (deadline for forms). Forms will be reviewed by the selection panel which will make recommendations to the district Commander for approval. The selection panel will be organized by the Formerly Used Defense Sites Project Manager of (name of district). The selection panel members will be representatives from the USACE district, the state, the community, and the U.S. Environmental Protection Agency, as appropriate.

Responsibilities

Community members are expected to serve as volunteers on the RAB and to provide individual advice to decision makers on environmental restoration plans for (name of FUDS property).

APPENDIX G
SAMPLE RAB OPERATING PROCEDURES

Operating Procedures
for (name of FUDS property)
Restoration Advisory Board

1. Mission Statement of (name of FUDS property) Restoration Advisory Board (RAB). The mission of the (name of FUDS property) RAB is to establish and maintain a forum with all stakeholders for the exchange of information in an open and interactive dialogue concerning the environmental restoration activities at (name of FUDS property). The RAB will review technical documents and provide comments and advice to the U.S. Army Corps of Engineers (USACE), (name of district), on the proposed environmental restoration activities.
2. Responsibilities of the RAB. Responsibilities of the RAB are as follows:
 - a. Provide advice on environmental restoration issues to USACE and regulatory agencies.
 - b. Hold regularly scheduled meetings that are open to the public and held at convenient times and locations, normally after duty hours.
 - c. Prepare public notices to promote public participation in RAB meetings.
 - d. Review, evaluate, and provide comments to the (name of district), USACE, on documents related to environmental restoration activities.
 - e. Identify applicable cleanup standards presented in the Comprehensive Environmental Response, Compensation and Liability Act and other applicable city, county, state, and Federal law and recommend cleanup levels consistent with planned reuse.
 - f. Recommend priorities among FUDS projects.
 - g. Record minutes of RAB meetings and make them available to interested parties.
 - h. Develop RAB mission statement and operating procedures.
3. RAB membership will consist of members from USACE, other Federal, state, and local regulatory agencies, and the local community. RAB membership will reflect the diversity of the community.

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a. Community members may be drawn from, but are not limited to, the local community (including residents; various local government agencies; businesses; school districts; local environmental groups (including activist groups); civic/public interest organizations; religious groups; local regulatory agencies; Homeowners Associations; the medical community; the economically disadvantaged; African-American, Native American, Hispanic, and other minority groups; other state and Federal governments; trustees; and local and tribal governments). Community members will provide information, seek independent technical advice when appropriate and feasible, communicate public concerns to the RAB, and provide information and progress reports to the public.

b. Other RAB members will be as follows:

(1) USACE Co-Chair. Responsibilities of the USACE Co-Chair (i.e., the project manager (PM) or some other, higher-level USACE manager) are listed in paragraph 7a below.

(2) State Regulatory Agencies. Responsibilities of the state regulatory agency member(s) are listed in paragraph 7d below.

(3) U.S. Environmental Protection Agency (EPA). Responsibilities of the EPA member(s) are listed in paragraph 7e below.

4. RAB Formation. General guidelines applicable to the formation of a RAB are as follows:

a. A RAB will consist of no more than 20 members.

b. A selection panel made up of community members will recommend RAB members to the USACE district Commander (name of FUDS property and name of district) for approval.

c. RAB members will serve a (stipulate 1- or 2-year) term. RAB members may submit an application to serve another term (not to exceed 2 years) when their first term has been completed. Total service will not exceed 4 years.

d. A Community Co-Chair will be elected by the RAB members. The procedures for conducting this election are specified in paragraph 6 below. The Community Co-Chair will serve a 1-year term, with re-election limited to one additional term.

e. The PM or some other, higher-level USACE manager designated by the district Commander will serve as the USACE Co-Chair.

5. RAB Meetings. RAB members will comply with the following meeting procedures:

a. Each community member will have one vote on the RAB's operating procedures in RAB meetings. Minutes of each RAB meeting will be recorded for inclusion in the Administrative Record.

b. Each RAB member will act individually in discussions, in providing comments on documents, and in providing advice to USACE. The RAB is not an advisory committee, as that term is used in the Federal Advisory Committee Act. All advice will be offered by RAB members as individuals and is not to be construed as "consensus" advice.

c. Regular, ontime attendance is a requirement for continued RAB membership. The RAB will meet once a month or any other period specified in the RAB operating procedures. Members are expected to attend every meeting. After a member has missed two meetings without appropriate explanation, the USACE and Community Co-Chairs will send a 14-day written notice to the member requesting written explanation within 14 days, of these absences and indicating that after three missed meetings, the RAB will assume that the member is no longer interested and will terminate his or her membership.

d. Member participation will follow a process similar to that presented in Robert's Rules of Order. An agenda will be followed at RAB meetings, with full and open discussions encouraged. A time for public comments or questions from the public on matters not included in the agenda will be held either at the beginning or near the end of the meeting. An effort should be made to complete the agenda, including public comments and questions, between (state specific beginning and ending times). A Co-Chair will ask the members for a motion to adjourn and approval of such motion in order to end each meeting.

e. The RAB will encourage public participation. Co-Chairs, or other designated representatives, will respond to questions raised by the public. If sufficient information is not available to provide an accurate response at the meeting, the issue will be recorded in the meeting transcript. A written response to all issues raised will be provided. The response provided will be an agenda item for discussion at the next regularly scheduled meeting. All public comments will be considered by the RAB and recorded in the meeting transcript.

f. RAB community members must have prior approval of the RAB before speaking for the RAB during press interviews or other public relations activities.

g. When a RAB member is unable to participate in RAB meetings, the member should submit a written resignation to a RAB co-chairperson. Resigning members may nominate new members to replace themselves. Replacement members will also be sought from those individuals who were notified of their nonselection when they initially completed the community interest forms. New members must continue to reflect the diversity of the community.

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h. A Procedures Committee will be established to resolve issues regarding compliance with the operating procedures and to accept proposals from RAB members to change the procedures. This committee will be composed of the two Co-Chairs and one RAB member appointed by the RAB.

i. A Nomination Committee will be established to accept nominations for election of the Community Co-Chair. The procedures for conducting the election are listed in paragraph 5 below.

j. Disputes within the RAB will be resolved by means of a three-step process. First, the RAB Co-Chairs will attempt to resolve the issue. When these efforts are not successful, an independent facilitator may be brought in to resolve the issue. Disputes which cannot be resolved by the Co-Chairs or a facilitator may be formally presented to the USACE district Commander for resolution.

k. A quorum of RAB members must be present in order to hold a RAB meeting. A quorum is defined as both Co-Chairs, one regulatory agency member, and 51 percent of the remaining RAB members.

6. Election of Community Co-Chair. An election will be held in (specify month) of each year to elect a Community Co-Chair. The Community Co-Chair will be elected by a majority vote of the community RAB members, by written ballot. A Nomination Committee consisting of three RAB members will be appointed in (specify month) by the existing Community Co-Chair to recommend a nominee for the Community Co-Chair position for the upcoming year. Other members may be nominated from the floor at the (specify month) RAB meeting. Write-in candidates and self-nomination are other avenues for election to the Community Co-Chair position. The Nomination Committee will count the written ballots and announce the results at the (specify month) RAB meeting. The Co-Chair elect will assume the position at the (specify month) RAB meeting.

7. RAB Member Responsibilities.

a. Responsibilities of the USACE Co-Chair are as follows:

(1) Coordinate with the Community Co-Chair to prepare and distribute an agenda prior to each RAB meeting.

(2) Communicate with all RAB members regarding environmental restoration activities at (name of FUDS property).

(3) Publicly announce RAB meetings at least 15 days prior to and on the day preceding the meeting dates.

- (4) Ensure that USACE participates in an open and constructive manner.
- (5) Ensure that RAB members are educated and trained regarding their responsibilities as a member of the RAB.
- (6) Ensure that the RAB is provided access to documents for its review and comment. Ensure that an adequate review period is allowed for the RAB members. Ensure that documents distributed to the RAB are also made available to the public.
- (7) Maintain a mailing list of interested and affected parties in the environmental restoration activities at (name of FUDS property).
- (8) Ensure that adequate administrative and technical support is provided to the RAB.
- (9) Ensure that community issues and concerns related to environmental restoration activities are addressed when raised.
- (10) Ensure that the RAB is fully informed during all phases of the environmental restoration process and that it has opportunities to participate in advising decision makers before final decisions are made.
- (11) Provide all relevant guidance documents to the RAB to enhance the operation of the RAB.
- (12) Report back to the USACE district and refer issues not related to environmental restoration to appropriate officials for action.

b. Responsibilities of the Community Co-Chair are as follows:

- (1) Coordinate with the USACE Co-Chair and the RAB members to prepare and distribute an agenda prior to each RAB meeting.
- (2) Coordinate, as required, with the USACE Co-Chair to ensure that RAB questions and concerns are answered in an appropriate and timely manner.
- (3) Encourage open and constructive community participation at RAB meetings.
- (4) Ensure that RAB members are trained regarding their responsibilities as RAB members.
- (5) Communicate with RAB members regarding environmental restoration activities.

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(6) Ensure that community issues and concerns related to environmental restoration are adequately addressed and that relevant information is communicated back to the community.

(7) Assist in the dissemination of information to the general public.

(8) Serve without compensation.

c. Responsibilities of RAB community members are as follows:

(1) Attend RAB meetings as required by the RAB operating procedures.

(2) Provide advice on environmental restoration activities to decision makers.

(3) Communicate community interests and concerns to the RAB.

(4) Serve as a conduit for the flow of information among the community, the USACE district, and other involved Federal, state, and local agencies regarding the environmental restoration issues at (name of FUDS property).

(5) Review, evaluate, and provide comments on documents related to environmental restoration activities.

(6) Serve without compensation.

d. Responsibilities of state regulatory agency member(s) are as follows:

(1) Attend RAB meetings as required by RAB operating procedures.

(2) Serve as an information, referral, and resource bank for the community, the USACE district, and other involved Federal, state, and local agencies regarding environmental restoration activities at (name of FUDS property).

(3) Review and provide comments on documents and other materials related to environmental restoration activities.

(4) Ensure that state environmental standards and regulations are identified and addressed by USACE.

(5) Facilitate flexible and innovative resolutions of environmental issues and concerns.

(6) Assist in the training of RAB members.

e. Responsibilities of the EPA member(s) are as follows:

- (1) Attend RAB meetings as required by RAB operating procedures.
 - (2) Serve as an information, referral, and resource bank for the community, the USACE district, and other involved Federal, state, and local agencies regarding environmental restoration activities at (name of FUDS property).
 - (3) Facilitate flexible and innovative resolutions of environmental issues and concerns.
 - (4) Ensure that Federal environmental standards and regulations are identified and addressed by USACE.
 - (5) Assist in the training of RAB members.
8. Amendments to RAB Operating Procedures. Amendments to RAB operating procedures may be made with a three-fourths majority vote of a quorum of all RAB members. Proposed amendments will be referred to a Procedures Committee for evaluation and recommendation. Proposals will be voted on by all RAB members after they receive the Procedures Committee's written recommendations. These recommendations will be provided to the RAB members at least 20 days prior to the meeting in which the proposed amendments will be addressed.

APPENDIX H

[Federal Register: February 2, 1998 (Volume 63, Number 21)]
[[Page 5255-5268]]

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 203

RIN 0790-AG14

Technical Assistance for Public Participation (TAPP) in Defense
Environmental Restoration Activities

AGENCY: Office of the Deputy Under Secretary of Defense for
Environmental Security (DUSD(ES)), DOD.

ACTION: Final rule.

SUMMARY: Pursuant to the National Defense Authorization Act (NDAA) of 1996, the Department of Defense (DoD) is finalizing a rule to provide technical assistance to local community members of Restoration Advisory Boards (RABs) and Technical Review Committee (TRCs). RABs and TRCs are established to review and comment on DoD environmental restoration activities at military installations and formerly used defense sites within the United States and its territories.

EFFECTIVE DATE: This rule is effective February 2, 1998.

FOR FURTHER INFORMATION CONTACT:

Patricia Ferreeb or Marcia Read, Office of the Deputy Under Secretary of Defense for Environmental Security, 3400 Defense Pentagon, Washington, D.C., 20301-3400, telephone (703) 697-5372 or (703) 697-7475.

SUPPLEMENTARY INFORMATION: The official record for this rulemaking is kept in a paper format. Accordingly, DoD has transferred all electronic or digital comments received into paper form and placed them into the official record, with all of the comments received in writing. The Department of Defense's responses to comments have been incorporated in a response to

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comments document, which has been placed into the official record for this rulemaking. The major comments and responses are discussed in the Response to Comments section of this preamble.

Any person wishing to review the official record, or be provided copies of documents in the official record, for this rulemaking should contact Patricia Ferrebee at Office of the Deputy Under Secretary of Defense for Environmental Security, 3400 Defense Pentagon, Washington, D.C. 20301-3400, in writing, or by telephone at (703) 697-5372.

Preamble Outline

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I. Legal Authority

This rule is issued under the authority of Section 2705 of Title 10, United States Code. Subsections (c) and (d) of Section 2705 encourage the Department of Defense to establish either a Technical Review Committee (TRC) or Restoration Advisory Board (RAB) to review and comment on DoD actions at military installations undertaking environmental restoration activities. Section 2705(e) permits the Department of Defense to obtain, from private sector sources, technical assistance to help TRCs and RABs better understand the scientific and engineering issues underlying an installation's environmental restoration activities. TRCs and RABs may request this assistance only if:

(1) The TRC or RAB demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation and DoD personnel do not have the

technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

(2) The technical assistance—

(a) Is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

(b) Is likely to contribute to community acceptance of environmental restoration activities at the installation. Funding for this technical assistance program will come from the Environmental Restoration Accounts established for Army, Navy, and Air Force for operating installations, and from the DoD Component's base closure account for transferring or closing installations. For Defense Agencies the Defense-Wide environmental restoration account will be the source of funds for assistance at operating installations. The Environmental Restoration Account for Formerly Used Defense sites will fund technical assistance at formerly used defense sites.

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II. Background

Over the past several years, the Department of Defense has participated as a member of the Federal Facilities Environmental Restoration Dialogue Committee (FFERDC). This committee, comprised of a wide range of stakeholders, was chartered by the Environmental Protection Agency (EPA) to develop consensus policy recommendations for improving environmental restoration at Federal facilities. In February 1993, the FFERDC issued the "Interim Report of the FFERDC: Recommendations for Improving the Federal Facilities Environmental Restoration Decision-Making and Priority-Setting Processes." This report recommended that Federal agencies become more proactive in providing information about restoration activities to stakeholders and that citizen advisory boards be established to provide advice to government agencies that conduct restoration at Federal facilities. This report also suggested the initiation of technical assistance funding.

The Department of Defense has issued policy for establishing RABs at its installations and formerly used defense sites. On September 9, 1993, the Department of Defense issued policy for establishing RABs at installations designated for closure or realignment under the BRAC Acts of 1988 and 1990 where property will be available for transfer to the community. On April 14, 1994, the Department of Defense issued RAB policy for non-closing installations as part of Management Guidance for Execution of the FY94/95 and Development of the FY96 Defense Environmental Restoration Program (DERP). The policy called for the establishment of RABs at DoD installations where there is sufficient, sustained community interest. Criteria for determining

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sufficient interest are: (1) a government agency request that a RAB be formed; (2) fifty local residents sign a petition requesting that a RAB be formed; (3) an installation determines that a RAB is needed; or (4) the closure or realignment of an installation involves the transfer of property to the community. On September 27, 1994, the Department of Defense and EPA issued joint RAB guidelines on how to develop and implement a RAB. Finally, on August 6, 1996, the Department of Defense proposed regulations governing the characteristics, composition, and establishment of RABs pursuant to the National Defense Authorization Act (NDAA) for 1995 (61 FR 40764-40772).

The proposed of a RAB is to bring together people who reflect the diverse interests within the local community, enabling an early and continual flow of information among the affected community, the Department of Defense, and environmental oversight agencies. Recognizing the importance of citizen participation in the environmental restoration process, Congress authorized the provision of technical assistance to aid public participation in Section 326 of NDAA-95. In response to this authority, the Department of Defense published a Notice of Request for Comments (May 24, 1995, 60 FR 27460-27463) on alternative methods for funding technical assistance. In 1996, Congress revised this authority in Section 324 of NDAA-96. This final rule establishes regulations for DOD Components to provide technical assistance to RABs and TRCs, and details the specific requirements for obtaining this assistance consistent with this new authority. Proposed regulations regarding the characteristics, composition, and establishment of RABs were previously published on August 6, 1996 (61 FR 40764-40772).

The Department of Defense published a proposed rule, Technical Assistance for Public Participation (TAPP) in Defense Environmental Restoration Activities, on December 27, 1996 (61 FR, 68174-68197). Public comments on this proposed rule were considered and, where appropriate, incorporated into this final rule.

III. Summary of Significant Changes From Proposed Rule

The substance of this final rule does not differ significantly from the proposed rule published on December 27, 1996. Principal among the changes is the addition of an appeals process, described more fully in Section IV of this preamble and located in Section 203.19 of the final rule. Because of devolvement of the Defense Environmental Restoration Account, the authority to grant waivers, in section 203.4, has been delegated to the DoD Component Secretary, or equivalent, for the installation in question. In addition, the Department of Defense has, in section 203.10, clarified the types of projects that will be eligible for TAPP funding.

IV. Description of the Final Rule and Responses to Major Comments

This rule finalizes the proposed rule "Technical Assistance for Public Participation (TAPP) in Defense Environmental Restoration Activities" (61 FR, 68174-68197). This section explains the

DoD's final action, based on the rationale presented in the proposed rule and the DoD's review of the public comments.

To facilitate the reader's review of this final rule and to streamline the overall structure, this section also contains the DoD's responses to the most significant comments after each of the topics discussed. If a particular section does not contain a response to comment section, then either no comments were received on that topic, or the Department of Defense has chosen to place its response in the background document entitled "Technical Assistance for Public Participation Response to Comments Background Document." This background document contains a complete discussion of the DoD's responses to comments and can be found in the docket for this rulemaking. This document provides a complete record of the public comments followed by the DoD's responses.

A. TAPP Process

An overview of the process by which community members of RABs and TRCs can obtain technical assistance is provided in Sections 203.4 and 203.5 of the final rule. The process begins with an evaluation by the community members of RABs and TRCs of their technical assistance needs and whether these needs can be met by existing avenues of support. These other available sources of assistance can include the installation's restoration contractors, installation or other DoD personnel, RAB or TRC members, volunteer sources from within the community, or state, local, or federal personnel responsible for the oversight of restoration activities at the installation. If these sources cannot provide the needed assistance, or if the selection of an alternate provider will contribute to environmental restoration activities and the community acceptance of such activities, the community members of RABs and TRCs may submit to the installation a request for technical assistance. This request should specify in as much detail as possible the type of assistance requested, the timeframe for which the assistance is required, and, if known, one or more potential providers.

Based upon the details provided in the request, the installation commander or other designated authority will determine whether the project meets the eligibility requirements outlined in this final rule. If the project is not approved, the RAB/TRC will receive a written explanation for that decision. If the project is approved, the installation commander will forward the application to the appropriate contracting authority. The contracting authority will issue

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purchase orders to obtain the desired technical assistance subject to certain funding limitations. If multiple purchase orders are needed to assist community members of a particular RAB or TRC, the combined sum of these purchase orders cannot exceed \$100,000 or, during any one year, the lesser of \$25,000 or 1 percent of the installation's projected environmental restoration cost-to-

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complete. Note that these limitations refer to the maximum allowable technical assistance funding per RAB/TRC. Resources available within a given year may vary. In addition, the funds to support RABs and TRCs and now TAPP derive from the same budget that funds installation environmental investigations and cleanup.

The government is required to follow the rules and regulations for purchase orders as outlines in the Federal Acquisition Regulations (FAR) (48 CFR Part 13). As a result, the government cannot direct awards to a specified supplier unless the procurement is under \$2,500, and then only if the cost is comparable to other suppliers. For procurements over \$2,500 but under \$100,000, the acquisition is reserved for small businesses, unless there is a reasonable expectation that small businesses could not provide the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performance, and schedules. Furthermore, the award must be on a competitive basis. The Department of Defense will solicit bids from those providers meeting the criteria and will select a provider offering the best value to the government. Should the procurement process identify a qualified respondent other than the proposed provider(s) identified by the RAB/TRC, or fail to identify any qualified respondents, the RAB/TRC will be consulted prior to the award of a purchase order. If the Department of Defense determines that the TAPP request represents an eligible project for which no funds are available, it will ask the RAB or TRC to specify whether the project should be reconsidered upon the availability of additional funds.

Community members of RABs and/or TRCs must comply with the reporting requirements established in Section 203.14 of this rule.

Response to Comments

One commenter indicated that the language in the proposed rule seems to indicate that support is only to be provided for projects that will assist in improving public support of DoD cleanup projects. The commenter noted that the public may have alternate viewpoints on such issues as: the need for cleanup, risk levels, technology to be used, etc.

The commenter believes that support should be provided to explore these issues as well, not just projects which validate DoD decisions.

In response, the Department of Defense intends that support be provided to allow the RAB/TRC members to better understand and provide input into DoD's decision process, and does not agree with the commenter that the rule implies that support will be provided only for projects that validate DoD's position.

Some commenters expressed concern that approval for TAPP projects goes through the installation commander.

In response, the installation commander has ultimate authority for the installation restoration program at his/her installation, and the Department of Defense feels it is the responsibility of that commander (or other service-designated authority) to make the decisions affecting the installation's cleanup budget and its ability to meet cleanup goals and requirements. Each installation commander or designated authority will receive guidance to help determine approval processes for potential TAPP projects. In the event the RAB does not agree with the decision of

the installation commander, it can appeal the decision through the appeals process outlined in section 203.19 of this final rule.

Several commenters questioned the funding process to be used. For instance, one commenter inquired whether RABs would have access to a full year's allowance (presumably meaning the full annual funding amount of \$25,000 or 1% of the installation's total projected environmental restoration cost-to-complete), even if the first project is less than that amount. Other commenters wanted to clarify whether approval would be subject to available funding, or if there was instead a "guarantee" of support. Finally, several commenters stated that TAPP support should be readily available, or projects could suffer while waiting.

When RABs/TRCs identify a need for technical assistance, the Department of Defense will program funds for TAPP support. The sources of TAPP funding are the Environmental Restoration Accounts established for the DoD Components. Therefore, it competes with study, cleanup, and even RAB funding. The installations, with input from their RAB/TRCs, will have to determine how tradeoffs will be made between these important activities. It is DoD's intention that once a project is identified and approved, the procurement of a provider will occur as quickly as possible to avoid potential impacts on installation schedules. However, procurement of the assistance provider is subject to availability of funds.

Each DoD Component will establish procedures for TAPP funding. They will not automatically set aside \$25,000 or 1% of the installation's total projected environmental restoration cost-to-complete for each RAB/TRC for TAPP each year, because some RABs/TRCs may not need TAPP support. There are no restrictions to having more than one TAPP project a year as long as the annual limit of \$25,000 or 1% of the installation's total projected environmental cost-to-complete is not exceeded.

Commenters questioned whether the criteria established for obtaining technical support can ever be met. For example, the first criteria states that TRCs and RABs may request assistance only if they demonstrate that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation do not have the technical expertise necessary for achieving the objective. The commenter believes this argument will be difficult to make. Additionally, the commenter wants to know what is required to show that support isn't available through these sources? The commenter continued in his argument that the criteria for obtaining assistance were unlikely to be met. He stated that the criteria regarding enhancing the timeliness of restoration activities at the installation is certainly not helped by the involvement of a new contractor. Finally, the commenter stated that the final criterion that the technical assistance will contribute to community acceptance of the installation's restoration activities, is likely not to be met by bringing in outside opinion.

In response, the criterion cited by the commenter was imposed by the NDAA of 1996 and are intended to conserve limited resources for TAPP funding and to encourage the use of all available resources. The Department of Defense anticipates that much of the technical expertise required by RABs will be available through existing installation environmental restoration contractors or through the regulatory and/or installation or other DoD personnel working on the program. The Department of Defense encourages the use of these resources to the maximum

extent possible, and notes that commenters from some RABs were quite

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vocal in their support for these avenues of support. Other sources of support, such as volunteer services from local universities or other experts or assistance from states and local health and environmental organizations, should also be considered to preserve limited TAPP resources. However, there may be circumstances, such as specific knowledge of local environmental conditions or knowledge of an alternative technology, which require expertise not available through Federal, State, or local oversight agencies. In these instances, the only requirement is that the RAB provide a statement in their request for technical assistance that states why their requirements cannot be met by those agencies. The Department of Defense also points out that the criterion noted above is one of two criteria for obtaining assistance, either one of which is sufficient. The full text of the second criterion cited by the commenter refers to enhancing the efficiency, effectiveness, or timeliness of environmental restoration activities. To that end, the Department of Defense believes that an informed RAB membership is better able to contribute to the restoration program than one unfamiliar with technical details.

Finally the Department of Defense believes that community acceptance may be enhanced through the contributions of outside sources of expertise, particularly when that source can verify to the community that the proposed restoration activities advocated by the Department of Defense are appropriate. Community acceptance is greatly influenced by community understanding. Technical assistance is intended to increase the RAB's understanding of the DoD environmental restoration program so that they may make meaningful contributions to the process. As RAB input is incorporated into the restoration program, environmental restoration becomes a cooperative effort involving all stakeholders. Carefully defining the type of assistance needed will limit the possibility that the introduction of a new contractor will hinder rather than enhance community understanding.

B. Eligible Applicants

Eligible applicants for TAPP are community members of RABs or TRCs established in accordance with 32 CFR part 202 (61 FR 40764-40772). Furthermore, the RABs or TRCs must have at least three community members to ensure community interests are broadly represented. The applicant must certify that the request represents the wishes of a simple majority of the community members of the RAB or TRC. Certification includes, but is not limited to, the results of a roll call vote of community members of the RAB or TRC documented in the meeting minutes.

Response to Comments

Commenters requested clarification on the definition of community members of RABs or TRCs, specifically whether state and local government officials could be considered community members for purposes of this final rule.

The Department of Defense considers state and local government employees on the RAB or TRC to have full membership in that body. However, for purposes of determining TAPP projects, the Department of Defense intends that RAB/TRB community members be limited to residents of the community affected by or potentially affected by the installation. In situations where community residents are also members of the Federal, state or local government, their participation in the TAPP process would not be excluded, provided they were not expressing opinions clearly derived from their status as government employees. As with the proposed RAB rule, however, the Department of Defense intends that the actual operations of individual RABs and TRCs be determined largely by the participants, and encourages each organization to develop its own guidelines for determining both membership at large and the subset of community members eligible to assist in the development of TAPP projects.

C. Eligible Activities

TAPP procurements should be pursued by the RAB or TRC only to the extent that Federal, State, or local agencies responsible for overseeing environmental restoration at the facility do not have the necessary technical expertise for the proposed project, or the proposed technical assistance will contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation and is likely to contribute to community acceptance of those activities. The list of eligible activities, section 203.10, of this final rule has been expanded to clarify eligible projects and provide examples. The final rule now provides that eligible projects include those projects designed to:

(1) Interpret technical documents, such as installation restoration program site investigation, engineering, and decision documents; risk assessments, including baseline and ecological risk assessments conducted by the installation; and health assessments, such as those conducted by Agency for Toxic Substances and Disease Registry (ATSDR).

(2) Assess technologies.

(3) Participate in relative risk evaluations.

(4) Understand health implications.

(5) Provide technical training, where appropriate.

Response to Comments

Several commenters wanted the list of eligible projects expanded to include some form of community outreach and the ability to generate new or primary data. In response, DoD believes community outreach should not be a part of the TAPP program. Community outreach is a fundamental part of an installation's community relations program, and should be conducted within the context of that program. One mechanism used successfully by many installations is the development and publication of fact sheets or newsletters, providing important information to the general public about the installation's restoration program. This activity is funded by the installation's environmental restoration and Base Realignment and Closure (BRAC) funding, which covers administrative costs incurred by the RABs. The Department of Defense believes that the goal of the TAPP program is to enhance participation through increased understanding of the

technical issues of the cleanup program, and maintains that the limited funding available for that purpose should be directed at that goal.

The generation of new data is the responsibility of the lead agency--in this case the Department of Defense. Furthermore, the Department of Defense works closely with the regulatory agencies to develop investigation strategies to ensure potential hazards are adequately characterized. This consultation and coordination is an important part of the partnership the Department of Defense maintains with regulatory agencies as cleanup proceeds. If the RAB identifies a circumstance where additional data collection may be necessary, these concerns should be communicated to the Department of Defense, where the final decisions on the restoration program reside, or to the appropriate regulatory agencies if the Department of Defense is not responsive.

D. Technical Assistance for Public Participation Provider Qualifications

The Department of Defense has determined that the technical assistance

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providers must possess certain minimum credentials. These include:

- (1) Demonstrated knowledge of hazardous or toxic waste issues and/or laws.
- (2) Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering).
- (3) Ability to translate technical information into terms understandable by lay persons.

In addition, technical assistance providers should possess the following credentials to ensure they will be qualified to assist the community members of RABs and TRCs in understanding the environmental restoration program:

- (1) Experience working on hazardous or toxic waste problems.
- (2) Experience in making technical presentations.
- (3) Demonstrated writing skills.
- (4) Previous experience working with affected individuals or community groups or other groups of individuals.

The technical assistance provider's qualifications will vary according to the type of assistance to be provided. Community members of the RAB/TRC may suggest additional provider qualifications as part of the application for technical assistance. These additional qualifications may be used by the Department of Defense to target the most appropriate providers during the procurement process. Examples of such criteria could include prior work in the area, knowledge of local environmental conditions or laws, specific technical capabilities, or other relevant expertise.

Response to Comments

One commenter noted that non-profits and universities should be eligible TAPP contractors.

In response, it was not the Department of Defense's intent to exclude qualified TAPP providers from eligibility, in either the proposed TAPP rule or this final rule. However, the use of purchase orders to obtain support does require the Department of Defense to follow procurement policies outlined in the FAR (48 CFR Part 13). Purchase orders are generally reserved for small businesses unless one of several situations apply. In circumstances where small businesses cannot be identified that meet the criteria for procurement, a contract can be awarded to a qualified bidder that is not a small business. Examples of such circumstances include situations where conflict of interest precludes otherwise acceptable small businesses from participation, where knowledge of specific technical capabilities or of specific proprietary technologies is required. The Department of Defense recognizes that in many instances, RAB requirements for support will specify criteria for the potential provider that may be met only by non-profits or universities, and envisions no difficulties in awarding procurements to these types of institutions. As part of the guidance under development for this program, the Department of Defense will provide information to assist RABs and the DoD contracting officers in determining appropriate circumstances for contracting with technical assistance providers that are not small businesses.

E. Submission of Application

The applicant must submit a TAPP application to begin the TAPP procurement process. The application form is included as Appendix A of this part and can be obtained from the DoD installation, the military department headquarters, or directly from the Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security, 3400 Defense Pentagon, Washington, D.C. 20301-3400, telephone (703) 697-5372 or (703) 697-7475.

The applications will not be considered complete until the following data elements have been entered into the form:

- (a) Installation.
- (b) Source of TAPP request (name of RAB or TRC).
- (c) Certification of majority request.
- (d) RAB/TRC contact point for TAPP project.
- (e) Project title.
- (f) Project type (e.g., data interpretation, training, etc.).
- (g) Project purpose and description (descriptions, time and locations of products or services desired).
- (h) Statement of eligibility of project.
- (i) Proposed provider, if known.
- (j) Specific qualifications or criteria for provider. Response to Comments

A few commenters argued that the application process is too complex. They noted that support might be required just to prepare the project description and/or the application.

The principal requirement for the RABs in applying for technical assistance is to develop a project that meets their needs in understanding some aspect of the installation's restoration

program. Once this need has been communicated to the Department of Defense, the government assumes the responsibilities for obtaining and monitoring the performance of the technical assistance provider. The application form merely formalizes the process the RABs should go through to develop their project requirements. Additional details, such as information about a potential technical assistance provider, are optional and are only intended to help speed up the procurement process.

Other commenters stated that RABs and TRCs should have access to additional support, either through an additional purchase order or through access to third party expertise, such as could be provided by Technical Outreach Services to Communities (TOSC) providers, in order to determine the requirements for their TAPP project. (TOSC is a program of the Environmental Protection Agency's Hazardous Substance Research Centers to provide information, technical and educational training, workshops, and site assistance for communities and RABs dealing with hazardous substance issues.)

In response, the Department of Defense believes the RABs, in concert with other members of the public, if necessary, are best positioned to determine their needs for technical support. The Department of Defense, State, and local government members of the RAB will be available for support in developing and preparing a TAPP request, should the RAB community members desire their input. Furthermore, guidance to assist communities and DoD installations with this program is currently under development by the Department of Defense and will be available to RAB members.

One commenter stated that preparation of the TAPP request imposes too much burden on the RAB with no reimbursement for time and effort. The commenter believed that this effort should be an eligible expense.

The Department of Defense reiterates that the TAPP request merely puts in writing the desires of the community members of the RAB to procure technical assistance. As such, the principal required information is a description of the proposed project. The Department of Defense has minimized the burden to community members of RABs/TRCs by developing a short application form and performing the contract administration.

F. Appeals Process

Although not specifically raised as an issue by commenters, the Department of Defense recognizes that disputes can arise at several junctures in the TAPP process. Three situations in which disagreements could occur are:

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(a) The RAB/TRC may dispute the findings of the installation commander that the proposed TAPP project is ineligible, either because of the failure of the RAB to adequately consider alternate sources of assistance or because the project does not meet the eligibility criteria established in the final rule.

(b) The RAB may dispute the findings of the contracting officer that (1) the preferred provider is inadequate, (2) the preferred provider is not cost effective, or (3) other providers identified in the acquisition process more clearly meet the requirements of the task.

(c) After the selection of a provider, a dispute can arise because the government contracting officer and the RAB/TRC do not agree that the provider has met the terms of the procurement. In this situation, the process outlined in the FAR (48 CFR Part 46) would apply.

There is a sincere desire by the Department of Defense to avoid disputes and to foster an atmosphere of cooperation between the RAB or TRC and the installation. Each DoD Component has a hierarchical organizational structure with clearly defined chains-of-command. In the event that disputes do occur, appeals will be considered within the chain-of-command, and, in general, will be resolved at the lowest possible level. The highest level of appeal will be at the DoD Component Deputy Assistant Secretary level with authority over the environmental restoration and BRAC environmental programs. In all cases, inherently governmental functions, such as records of decision, are not subject to appeal, and issues regarding contracting must be governed by the FAR (48 CFR Part 37).

V. Administrative Requirements/Compliance With Executive Order

A. Regulatory Impact Analysis Under Executive Order 12866

Under Executive Order 12866 (October 4, 1993, 58 FR 51735), the Department of Defense must determine whether this regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under Section 3(f), the order defines a "significant regulation action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, the OMB has determined this rule is a "significant regulatory action" because it may raise novel legal or policy issues. As such, this action was submitted to the OMB for review, and any comments or changes made in response to the OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that agencies evaluate the effects of rules for three types of small entities:

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- (1) Small Businesses (as defined in the Small Business Administration regulations);
- (2) Small organizations (independently owned, non-dominant in their field, non-profit); and
- (3) Small government jurisdictions (serving communities of less than 50,000 people).

The Department of Defense has considered the interests of small businesses and small organizations by means of the use of purchase orders to obtain technical assistance. As stated in the FAR (48 CFR Part 13), those purchase orders under \$100,000 are reserved for small inesses, unless it can be demonstrated that small businesses are unable to provide the necessary service or product. Only a limited number of small non-profit organizations are expected to be affected by this program as it is likely that only those non-profit organizations located near Department of Defense installations with ongoing environmental restoration programs will, in most cases, provide the requested technical assistance. The Department of Defense was careful not to impose additional reporting requirements on the public and to stay within the reporting requirements quota for procurements. In keeping with the Simplified Acquisition Procedures (SAP), the Department of Defense has sought to increase the dollar amount of small purchase orders to simplify the procurement process. The Department of Defense has deliberately written the regulations to encourage small entities to apply. Given the limited funding available to this program and the process outlined of Section 203.4 of this final rule, it is not expected that this rulemaking will have a significant economic impact on a substantial number of small entities and, therefore, no Regulatory Flexibility Analysis is necessary.

C. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, the reporting and record keeping provisions of this final rule were submitted to the OMB for review under Section 3507(d) of the Act.

The collection of information is necessary to identify products or services requested by community members of RABs/TRCs to aid in their participation in the Department of Defense's environmental restoration program, and to meet Congressional reporting requirements.

Respondents are community members of restoration advisory boards or technical review committees requesting technical assistance to interpret scientific and engineering issues regarding the nature of environmental hazards at an installation. This assistance will help communities in participating in the cleanup process. The information, directed by 10 U.S.C. 2705, will be used to determine the eligibility of the proposed project, begin the procurement process to obtain the requested products or services, and determine the satisfaction of community members of RABs/TRCs receiving the products and services.

D. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of the regulatory actions on State, Tribal, and local governments and the private sector. Under section 202 of the UMRA, the Department of Defense generally must prepare a written statement, including a cost-benefit analysis, for

proposed and final rules with ``Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When a written statement is needed, section 205 of the UMRA generally requires the Department of Defense to identify and consider a reasonable number of regulatory alternatives that achieve the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the Department of Defense to adopt an

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alternative other than the least costly, most cost-effective, or least burdensome alternative if the Secretary publishes with the final rule an explanation why that alternative was not adopted. Before the Department of Defense establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input into the development of the Department of Defense's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The Department of Defense has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects in 32 CFR Part 203

Administrative practice and procedure, Technical assistance, Public assistance programs, Environmental protection, Federal buildings and facilities, Organization and functions (Government agencies).

Title 32 of the Code of Federal Regulations, Chapter I, Subchapter M, is amended to add part 203 to read as follows:

PART 203--TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES

Sec.

203.1 Authority.

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- 203.2 Purpose and availability of referenced material.
 - 203.3 Definitions.
 - 203.4 Major components of the TAPP process.
 - 203.5 TAPP process.
 - 203.6 Cost principles.
 - 203.7 Eligible applicants.
 - 203.8 Evaluation criteria.
 - 203.9 Submission of application.
 - 203.10 Eligible activities.
 - 203.11 Ineligible activities.
 - 203.12 Technical assistance for public participation provider qualifications.
 - 203.13 Procurement.
 - 203.14 RAB/TRC reporting requirements.
 - 203.15 Method of payment.
 - 203.16 Record retention and audits.
 - 203.17 Technical assistance provider reporting requirements.
 - 203.18 Conflict of interest and disclosure requirements.
 - 203.19 Appeals process.
- Appendix A to Part 203--Technical Assistance for Public Participation Application Request Form

Authority: 10 U.S.C. 2705.

Sec. 203.1 Authority.

Part 203 is issued under the authority of section 2705 of Title 10, United States Code. In 1994, Congress authorized the Department of Defense (DoD) to develop a program to facilitate public participation by providing technical assistance to local community members of Restoration Advisory Boards (RABs) and Technical Review Committees (TRCs) (section 326 of the National Defense Authorization Act for Fiscal Year 1995, Pub.L. 103-337). In 1996, Congress revised this authority (section 324 of the National Defense Authorization Act for Fiscal Year 1996, Pub.L. 104-112). It is pursuant to this revised authority, which is codified as new subsection (3) of section 2705, that the Department of Defense issues this part.

Sec. 203.2 Purpose and availability of referenced material.

(a) This part establishes the Technical Assistance for Public Participation (TAPP) program for the Department of Defense. It sets forth policies and procedures for providing technical assistance to community members of TRCs and RABs established at DoD installations in the United States and its territories. This part sets forth the procedures for the Department of Defense to accept and

evaluate TAPP applications, to procure the assistance desired by community members of RABs and TRCs, and to manage the TAPP program. These provisions are applicable to all applicants/recipients of technical assistance as discussed in Sec. 203.4 of this part.

(b) Any reference to documents made in this part necessary to apply for TAPP (e.g., the Office of Management and Budget (OMB) Circulars or DoD forms) are available through the DoD installations, the military department headquarters, or from the Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)), 3400 Defense Pentagon, Washington, DC 20301-3400.

Sec. 203.3 Definitions.

As used in this part, the following terms shall have the meaning set forth:

Affected. Subject to an actual or potential health or environmental threat arising from a release or a threatened release at an installation where the Secretary of Defense is planning or implementing environmental restoration activities including a response action under the Comprehensive Environmental Response Compensation and Liability Act as amended (CERCLA), corrective action under the Resource Conservation and Recovery Act (RCRA), or other such actions under applicable Federal or State environmental restoration laws. This would include actions at active, closing, realigning, and formerly used defense installations. Examples of affected parties include individuals living in areas adjacent to installations whose health is or may be endangered by the release of hazardous substances at the facility.

Applicant. Any group of individuals that files an application for TAPP, limited by this part to community members of the RAB or TRC. **Application.** A completed formal written request for TAPP that is submitted to the installation commander or to the identified decision authority designated for the installation. A completed application will include a TAPP project description.

Assistance provider. An individual, group of individuals, or company contracted by the Department of Defense to provide technical assistance under the Technical Assistance for Public Participation program announced in this part.

Assistance provider's project manager. The person legally authorized to obligate the organization executing a TAPP purchase order to the terms and conditions of the DoD's regulations and the contract, and designated by the provider to serve as the principal contact with the Department of Defense.

Community Co-chair. The individual selected by the community members of the RAB/TRC to represent them.

Community member. A member of the RAB or TRC who is also a member of the affected community. For the purpose of this part, community members do not include local, State, or Federal government officials acting in any official capacity.

Community point of contact. The community member of the RAB or TRC designated in the TAPP application as the focal point for communications with the Department of Defense

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regarding the TAPP procurement process. The community point of contact is responsible for completing the reporting requirements specified in Sec. 203.14 of this part.

Contact. A written agreement between the installation or other instrumentality of the Department of Defense and another party for services or supplies necessary to complete the TAPP project.

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Contracts include written agreements and subagreements for professional services or supplies necessary to complete the TAPP projects, agreements with consultants, and purchase orders.

Contracting officer. The Federal official designated to manage the contract used to fulfill the TAPP request by the RAB or TRC.

Contractor. Any party (e.g., Technical Assistance Provider) to whom the installation or other instrumentality of the Department of Defense awards a contract. In the context of this part, it is synonymous with assistance provider.

Cost estimate. An estimate of the total funding required for the assistance provider to complete the TAPP project.

DoD Component. The military services including the Army, Navy, Marine Corps, and Air Force and those defense agencies with an environmental restoration program.

DoD Component Deputy Assistant Secretary. The individual in the office of the Secretary of the Army, Navy, Air Force responsible for making environmental decisions for their component or the director of the Defense Agencies.

DoD Installation. A facility that is controlled or operated or otherwise possessed by a department, or agency of the United States Department of Defense within the United States and its territories. In the context of this part, formerly used defense sites (FUDS) are included within the definition of a DoD Installation.

DoD RAB Co-chair. The individual selected by the installation commander, or equivalent, to serve as the installation co-chair of the RAB, represent DoD's interests, serve as liaison with community RAB members, and advocate RAB concerns within the installation staff.

EPA. The United States Environmental Protection Agency.

Firm fixed price contract. A contract wherein funding is fixed, prior to the initiation of a contract, for an agreed upon service or product.

Formerly Used Defense Site (FUDS). A site that has been owned by, leased to, possessed by, or otherwise under the jurisdiction of the Department of Defense. The FUDS program does not apply to those sites outside U.S. jurisdiction.

Purchase order. An offer by the Government to buy supplies or services from a commercial source, upon specified terms and conditions, the total cost of which cannot exceed the small purchase limit of \$100,000. Purchase orders are governed by Federal Acquisition Regulations (FAR) (48 CFR part 13), and the Simplified Acquisition Procedures (SAP).

Restoration Advisory Board (RAB). The RAB is a forum for representatives of the Department of Defense, local community, and EPA and/or State, local, and tribal officials to discuss and exchange information about the installation's environmental restoration program. The RAB provides stakeholders an opportunity make their views known, review progress and participate in dialogue with the decision makers.

Statement of Work. That portion of a contract which describes the actual work to be done by means of specifications or minimum requirements, quantities, performance dates, time and place of performance, and quality requirements. It is key to any procurement because it is the basis for the contractor's response and development of proposed costs.

TAPP approval. Signifies that the Department of Defense has approved the eligibility of the proposed TAPP project and will, subject to the availability of funds, undertake an acquisition to obtain the services specified in the TAPP application submitted by the RAB or TRC. The government will conduct the acquisition in accordance with all of the applicable rules and requirements of the FAR and the SAP. Approval does not constitute an agreement to direct an award to a specific source if such an action would be contrary to the FAR.

TAPP project description. A discussion of the assistance requested that includes the elements listed in Section 203.10 of this part. The project description should contain sufficient detail to enable the Department of Defense to determine the nature and eligibility of the project, identify potential providers and estimate costs, and prepare a statement of work to begin the procurement process.

Technical assistance. Those activities specified in Sec. 203.10 of this part that will contribute to the public's ability to provide input to the decision-making process by improving the public's understanding of overall conditions and activities. Technical assistance may include interpreting technical documents; assessing technologies; participating in relative risk evaluations, understanding health implications; and, training.

Technical assistance does not include those activities prohibited under Section 203.11 of this part, such as litigation or underwriting legal actions; political activity; generation of new primary data such as well drilling and testing, including split sampling; reopening final DoD decisions or conducting disputes with the Department of Defense; or epidemiological or health studies, such as blood or urine testing.

Technical Review Committee (TRC). A group comprised of the Department of Defense, EPA, State, and local authorities and a public representative of the community formed to meet the requirements of 10 U.S.C. 2705(c), the Department of Defense Environmental Restoration Program. Primarily functioning to review installation restoration documents, these committees are being expanded and modified at installations where interest or need necessitates the creation of a RAB.

Sec. 203.4 Major components of the TAPP process.

- (a) The Department of Defense will issue purchase orders to technical assistance, facilitation,

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training, and other public participation assistance providers subject to the purchase limit per order as resources continue to be available. If multiple purchase orders are needed to assist community members of a particular RAB or TRC, the combined sum of these purchase orders cannot exceed \$100,000 or, during any one year, the lesser of \$25,000 or 1 percent of the installation's total projected environmental restoration cost-to-complete. Note that these limitations refer to the maximum allowable technical assistance funding per RAB/TRC. Resources available within a given year may vary. These limitations apply unless a waiver is granted by the DoD Component Secretary or equivalent for the installation in question. The \$100,000 total and \$25,000 annual limitations may be waived, as appropriate, to reflect the complexity of response action, the nature and extent of contamination at the installation, the level of activity at the installation, projected total needs as identified by the TAPP recipient, the size and diversity of the affected population, and the ability of the TAPP recipient to identify and raise funds from other sources.

(b) Community members of the RAB/TRC will provide a description of the services requested (TAPP Project Description) and, if desired, the names of one or more proposed technical assistance providers to the DoD RAB Co-Chair, who will ensure the application is submitted to the installation commander or other designated authority and to the appropriate DoD contracting office. Technical assistance providers proposed by the community members of a RAB or TRC at each DoD installation that meets the minimum set

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of organizational qualifications guidelines provided by the Department of Defense in Sec. 203.12 of this part will be added to the governments list of bidders for the proposed procurement.

Sec. 203.5 TAPP process.

This section provides an overview of the TAPP process. Specific details referred to in this section can be found in subsequent sections of this part.

(a) TAPP funding. Funding for this TAPP program will come from the Environmental Restoration Accounts established for Army, Navy, and Air Force for operational installations. The funding for Defense Agencies' operating installations will be from the Defense-Wide Environmental Restoration Account. Funding will be from the component's base closure account for transferring or closing installations. Funding for Formerly Used Defense Sites will come from the Environmental Restoration Account established for Formerly Used Defense Sites. After justification of the TAPP proposal, each DoD Component will make funds available from their individual installation's environmental restoration or BRAC accounts, considering a number of factors related to the restoration program at the installation and its impact upon the community. These factors include, but are not limited to:

- (1) Closure status.
- (2) Budget.
- (3) Installation restoration program status.
- (4) Presence (or absence) of alternate funding.
- (5) Relative risk posed by sites at the installation.
- (6) Type of task to be funded.
- (7) Community concern.
- (8) Available funding.

(b) Identification of proposed TAPP project. Eligible applicants of RABs and TRCs, established in Sec. 203.7 of this part, should determine whether a TAPP project is required to assist the community members of the RAB or TRC to interpret information regarding the nature and extent of contamination or the proposed remedial actions. Eligibility requirements for TAPP projects are described in Secs. 203.10 and 203.11 of this part. In keeping with the requirements of 10 U.S.C. 2705(e), the RAB or TRC must be able to demonstrate that the technical expertise necessary for the proposed TAPP project is not available through the Federal, State, or local agencies responsible for overseeing environmental restoration at the installation, or that the selection of an independent provider will contribute to environmental restoration activities and the community acceptance of such activities. In addition, the Department of Defense encourages the RAB or TRC to seek other available sources of assistance prior to submitting a request for TAPP in order to preserve limited resources. These sources include DoD's installation restoration contractor, or other DoD contractors or personnel, EPA or state regulatory personnel, volunteer services from local universities or other experts, or assistance from state and local health and environmental organizations.

(c) TAPP project request. The RAB or TRC should notify the installation of its intent to pursue TAPP upon the determination that other sources of assistance are unavailable or unlikely to contribute to the community acceptance of environmental restoration activities at the installation and should prepare a formal request specifying the type of assistance required and, if desired, one or more sources for this assistance. Details concerning this request are stated in Sec. 203.9 of this part. The RAB or TRC must certify to the Department of Defense that the TAPP request represents a request by a majority of the community members of the RAB or TRC. The RAB or TRC should ensure that the request meets the eligibility requirements specified in Secs. 203.10 and 203.11 of this part. Furthermore, the RAB or TRC may outline additional criteria for the Department of Defense to consider in the selection of a provider (such as knowledge of local environmental conditions or specific technical issues, a prior work history within the study area which has relevant specific circumstances or unique challenges, or other relevant expertise or capabilities), keeping in mind that providers must meet the minimum technical qualifications outlined in Sec. 203.12 of this part. The formal request should be submitted to the installation commander or designated decision authority, either directly, or through the DoD RAB Co-chair.

The installation commander, or other designated decision authority, will review the proposed project to determine whether the proposed project conforms to the eligibility requirements. If the installation commander, or other designated authority, fails to approve the project request, the rationale for that decision will be provided to the RAB/TRC in writing.

(d) Purchase orders. Upon receipt of a completed TAPP request, the installation will begin the procurement process necessary to obtain the desired services by means of a purchase order or will forward the request to the contracting authority designated by the DoD Component to act for that installation. The government is required to follow the rules and regulations for purchase orders as outlined in the FAR (48 CFR part 13). As a result, the government cannot direct awards to a specified supplier unless the procurement is under \$2,500, and then only if the cost is comparable to other suppliers. For procurements over \$2,500 but under \$100,000, the acquisition is reserved for small businesses, unless there is a reasonable expectation that small businesses could not provide the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performance, and schedules. Furthermore, the award must be on a competitive basis. In addition to proposing potential providers, the application for technical assistance may indicate specific criteria or qualifications that are deemed necessary by the RAB/TRC for the completion of the project to their satisfaction. This information will be used to assist the Department of Defense in preparing a bidders list. The Department of Defense will solicit bids from those providers meeting the criteria and will select a provider offering the best value to the government. Should the procurement process identify a qualified respondent other than the proposed provider(s) identified by the RAB/TRC or fail to identify any qualified respondents, the RAB/TRC will be consulted prior to the award of a purchase order. If the Department of Defense determines that the TAPP request represents an eligible project for which no funds are available, it will ask the RAB or TRC to specify whether the project should be reconsidered upon the availability of additional funds.

(e) Reporting requirements. The applicant must assure that copies of delivered reports are made available to the Department of Defense and must comply with the reporting requirements established in Sec. 203.14 of this part.

Sec. 203.6 Cost principles.

(a) Non-profit contractors must comply with the cost principles in OMB Circular A-122. Copies of the circular may be obtained from EOP Publications, 725 17th NW, NEOB, Washington, DC 20503.

(b) For-profit contractors and subcontractors must comply with the cost principles in the FAR (48 CFR part 31).

Sec. 203.7 Eligible applicants.

Eligible applicants are community members of RABs or TRCs. Furthermore, the RABs or TRCs must be comprised of at least three community members to ensure community interests are broadly represented. The applicant must certify that the request represents the wishes of a simple majority of the community members of the RAB or TRC. Certification includes, but is not limited to, the results of a roll call vote of community members of the RAB or TRC documented in the meeting minutes. Other requirements of the application are detailed in Sec. 203.9 of this part.

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Sec. 203.8 Evaluation criteria.

The Department of Defense will begin the TAPP procurement process only after it has determined that all eligibility and responsibility requirements listed in Secs. 203.6, 203.7, and 203.9 of this part are met, and after review of the specific provider qualifications as submitted in the narrative section of the application. In addition, the proposed TAPP project must meet the eligibility criteria as specified in Secs. 203.10 and 203.11 of this part. Projects that fail to meet those requirements relating to the relevance of the proposed project to the restoration activities at the installation will not be approved.

Sec. 203.9 Submission of application.

The applicant must submit a TAPP application to begin the TAPP procurement process. The application form is included as appendix A of this part and can be obtained from the DoD installation, the DoD Component headquarters, or directly from the Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security, 3400 Defense Pentagon, Washington, D.C. 20301-3400. The applications will not be considered complete until the following data elements have been entered into the form:

- (a) Installation.
- (b) Source of TAPP request (names of RAB or TRC).
- (c) Certification of majority request.
- (d) RAB/TRC contact point for TAPP project.
- (e) Project title.
- (f) Project type (e.g. data interpretation, training, etc.).
- (g) Project purpose and description (descriptions, time and locations of products or services desired).

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- (h) Statement of eligibility of project.
- (i) Proposed provider, if known.
- (j) Specific qualifications or criteria for provider.

Sec. 203.10 Eligible activities.

(a) TAPP procurements should be pursued by the RAB or TRC only to the extent that Federal, State, or local agencies responsible for overseeing environmental restoration at the facility do not have the necessary technical expertise for the proposed project, or the proposed technical assistance will contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation and is likely to contribute to community acceptance of those activities.

(b) TAPP procurements may be used to fund activities that will contribute to the public's ability to provide advice to decision-makers by improving the public's understanding of overall conditions and activities. Categories of eligible activities include the following:

(1) Interpret technical documents. The installation restoration program documents each stage of investigation and decision-making with technical reports that summarize data and support cleanup decisions. Technical assistance may be provided to review plans and interpret technical reports for community members of RABs and TRCs. These reports include, but are not limited to:

(i) Installation restoration program site studies, engineering documents, such as site inspections, remedial investigations, feasibility studies, engineering evaluation and cost analyses, and decision documents (including records of decision);

(ii) Risk assessments, including baseline and ecological risk assessments conducted by the installation; and

(iii) Health assessments, such as those conducted by the Agency for Toxic Substances and Disease Registry (ATSDR).

(2) Assess technologies. Technical assistance may be provided to help RAB/TRC community members understand the function and implications of those technologies selected to investigate or clean up sites at the installation.

(3) Participate in relative risk site evaluations. Technical assistance may be provided to help RAB/TRC community members contribute to the relative risk evaluation process for specific sites.

(4) Understand health implications. Technical assistance may be provided to help RAB/TRC community members interpret the potential health implications of cleanup levels or remedial

technologies, or to explain the health implications of site contaminants and exposure scenarios.

(5) Training, where appropriate. Technical trainers on specific restoration issues may be appropriate in circumstances where RAB/TRC members need supplemental information on installation restoration projects.

Sec. 203.11 Ineligible activities.

The following activities are ineligible for assistance under the TAPP program:

- (a) Litigation or underwriting legal actions, such as paying for attorney fees or paying for a technical assistance provider to assist an attorney in preparing legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site.
- (b) Political activity and lobbying as defined by OMB Circular A-122.
- (c) Other activities inconsistent with the cost principles stated in OMB Circular A-122, "Cost Principles for Non-Profit Organizations."
- (d) Generation of new primary data, such as well drilling and testing, including split sampling.
- (e) Reopening final DoD decisions, such as the Records of Decision (see limitations on judicial review of remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 113(h)) or conducting disputes with the Department of Defense).
- (f) Epidemiological or health studies, such as blood or urine testing.
- (g) Community outreach efforts, such as renting a facility and conducting public meetings, or producing and distributing newsletters.

Sec. 203.12 Technical assistance for public participation provider qualifications.

- (a) A technical assistance provider must possess the following credentials:
 - (1) Demonstrated knowledge of hazardous or toxic waste issues and/or laws.
 - (2) Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering).
 - (3) Ability to translate technical information into terms understandable to lay persons.
- (b) A technical assistance provider should possess the following credentials:
 - (1) Experience working on hazardous or toxic waste problems.
 - (2) Experience in making technical presentations.
 - (3) Demonstrated writing skills.
 - (4) Previous experience working with affected individuals or community groups or other groups of individuals.

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(c) The technical assistance provider's qualifications will vary according to the type of assistance to be provided. Community members of the RAB/TRC may suggest additional provider

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qualifications as part of the application for technical assistance. These additional qualifications may be used by the Department of Defense to target the most appropriate providers during the procurement process. Examples of such criteria could include prior work in the area, knowledge of local environmental conditions or laws, specific technical capabilities, or other relevant expertise.

Sec. 203.13 Procurement.

Procurements will be conducted as purchase orders in accordance with the FAR (48 CFR part 13). Under these procedures, procurements not exceeding \$100,000 are reserved exclusively for small businesses, and will be conducted as competitive procurements. Procurements below a value of \$2,500 are considered "micro-purchases." These procurements do not require the solicitation of bids and may be conducted at the discretion of the contracting officer.

Sec. 203.14 RAB/TRC reporting requirements.

The community point of contact of the RAB or TRC must submit a report, to be provided to the installation and to DUSD(ES), to enable the Department of Defense to meet DoD reporting requirements to Congress. This report should include a description of the TAPP project, a summary of services and products obtained, and a statement regarding the overall satisfaction of the community member of the RAB or TRC with the quality of service and/or products received.

Sec. 203.15 Method of payment.

The SAP set forth in FAR (48 CFR part 13) require purchase orders to be conducted on a firm-fixed-price basis, unless otherwise authorized by agency procedures. The Department of Defense anticipates all TAPP awards to be firm-fixed-price procurements.

Sec. 203.16 Record retention and audits.

The recipient technical assistance providers shall keep and preserve detailed records in connection with the contract reflecting acquisitions, work progress, reports, expenditures and commitments, and indicate the relationship to established costs and schedules.

Sec. 203.17 Technical assistance provider reporting requirements.

Each technical assistance provider shall submit progress reports, financial status reports, materials prepared for the RAB/TRC, and a final report to the DoD installation for the TAPP project as specified by the specific purchase order agreement. The final report shall document TAPP project activities over the entire period of support and shall describe the achievements with respect to stated TAPP project purposes and objectives.

Sec. 203.18 Conflict of interest and disclosure requirements.

The Department of Defense shall require each prospective assistance provider on any contract to provide, with its bid or proposal:

(a) Information on its financial and business relationship with the installation, RAB/TRC members, or any/all potentially responsible parties (PRPs) at the site, and with their parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties.

(b) Certification that, to the best of its knowledge and belief, it has disclosed such information or no such information exists.

(c) A statement that it shall disclose immediately any such information discovered after submission of its bid or after award. The contracting officer shall evaluate such information and shall exclude any prospective contractor if the contracting officer determines the prospective contractor has a potential conflict of interest that is both significant and cannot be avoided or otherwise resolved. If, after award, the contracting officer determines that a conflict of interest exists that is both significant and cannot be avoided or resolved, the contract will be terminated for cause.

(d) Contractors and subcontractors may not be technical assistance providers to community members of RABs/TRCs at an installation where they are performing cleanup activities for the Federal or State government or any other entity.

Sec. 203.19 Appeals process.

DoD Components will establish an appeals process to settle potential disputes between the

Department of Defense and the public regarding certain decisions arising out of the TAPP process. The Department of Defense recognizes that the RAB/TRC may disagree with the findings of the installation commander that a proposed TAPP project is ineligible, either because of the availability of alternate sources of assistance or because the project does not meet the eligibility criteria established in this part. It is in the best interests of the Department of Defense and the community members of RABs and TRCs to anticipate and avoid disputes and to work cooperatively to resolve potential differences of opinion. However, in certain circumstances, the RAB/TRC community members may feel that their needs were not adequately served by the decisions of the Department of Defense. In this instance, the hierarchical structure and chain-of-command within each DoD Component will serve as the avenue for appeal. Appeals will be considered within the chain-of-command, and, in general, will be resolved at the lowest level possible. The highest level of appeal will be at the DoD Component Deputy Assistant Secretary level with authority over the DERP and BRAC environmental programs. Inherently governmental functions, such as the procurement process governed by the FAR, are not subject to appeal.

APPENDIX I

Table I-1. FUDS RAB and TAPP Reporting Requirements Matrix

No.	Requirement	Status Date	Report Due Date	Status Date	Report Due Date
1	FUDS Property RAB Status – Table 2	31 March	30 April	30 September	31 October
2	RAB Establishment and Expenditures – Table 3	31 March	30 April	30 September	31 October
3	TAPP Expenditures – Table 4	31 March	30 April	30 September	31 October
4	New RABs Established – Table 5	31 March	30 April	30 September	31 October
5	RAB Disestablishment – Table 6	31 March	30 April	30 September	31 October
6	RAB Community Representation – Table 7	None	None	30 September	31 October
7	RAB Activity – Table 8	None	None	30 September	31 October
8	RAB Advice – Table 9	None	None	30 September	31 October
9	TAPP Reports	None	None	30 September	31 October

Table I-2. FUDS Property RAB Status

FUDS Property Name	FUDS Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD) (Note 1)	Reason RAB Not Established (Note 2)	Date RAB Disestablished (YYMMDD) (Note 3)	Reason RAB Disestablished (Note 4)

Note 1: Date (Year Month Day) the first RAB meeting was held and the community members selected the Community Co-Chair.

Note 2: Every FUDS property with a restoration program must determine interest in a RAB. For every FUDS property where a RAB has not been formed, provide a reason why a RAB has not been established. The following are standard reasons:

- A. FUDS property located in remote area; therefore, no affected community
- B. USACE district Commander has determined that a RAB is not needed, or the property owner objects to the disestablishment of a RAB.
- C. The community has expressed no sufficient, sustained interest in a RAB.
- D. Establishment of a RAB is not warranted due to lack of outstanding cleanup issues or activities.
- E. FUDS property is supported by another RAB.
- F. DOD does not have cleanup lead at FUDS property (e.g., PRP projects).
- G. USACE district Commander has not attempted to establish a RAB.
- H. USACE district Commander is in the process of determining community interest in establishing a RAB.

Note 3: If the RAB was disestablished, indicate the date (Year Month Day) meeting was held to disestablish the RAB.

Note 4: Indicate the reason RAB was disestablished:

- A. The FUDS property no longer has an environmental restoration program.
- B. All environmental restoration remedies are in place and are operating properly and successfully.
- C. There is no longer sufficient, sustained community interest.

Date Prepared:

Table I-3. RAB Establishment and Expenditures

FUDS Property Name	FUDS Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	FY (Current FY)		FY (Next FY)	
				Funds Expended Thru 31 Mar	Funds Expended Thru 30 Sep	Funds Projected Thru 31 Mar	Funds Projected Thru 30 Sep

Expenditures will be reported as Outlays (Actual Expenses, not Obligations).

Date Prepared:

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Table I-4. TAPP Expenditures

FUDS Property Name	FUDS Property Number	Federal Facility I.D. Number	Date Initial TAPP Request (YYMMDD)	FY (Current FY)		FY (Next FY)		Total TAPP Expenditures
				Funds Expended Thru 31 Mar	Funds Expended Thru 30 Sep	Funds Projected Thru 31 Mar	Funds Projected Thru 30 Sep	

Expenditures will be reported as Outlays (Actual Expenses, not Obligations).

Date Prepared:

Table I-5. New RABs Established

FUDS Property Name	FUDS Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD) (Note 1)

Note 1: Date (Year Month Day) the first RAB meeting was held and the community members selected the Community Co-Chair.

Date Prepared:

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Table I-6. RAB Disestablishment

FUDS Property Name	FUDS Property Number	Federal Facility I.D. Number	Date RAB Disestablished (YYMMDD) (Note 1)

Note 1: Date (Year Month Day) the last RAB meeting was held and the community members decided to disestablish the RAB.

Date Prepared:

Table I-7. RAB Community Representation

FUDS Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G

Mark XX in all columns that apply for each FUDS property.

- A – Local residents/community members.
- B – FUDS property residents, if any.
- C – Local environmental groups/activists.
- D – Business community.
- E – Low income and minority.
- F – Local government officials.
- G – Other.

Date Prepared:

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Table I-8. RAB Activity

FUDS Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G

Mark XX in all columns that apply for each FUDS property.

- A – Reviewed plans and technical documents.
- B – Provided comments or advice.
- C – Received training.
- D – Established operating procedures.
- E – Participated in or reviewed relative risk evaluations.
- F – Provided advice that affected scope or schedule of studies/cleanup.
- G – Improved Corps of Engineers credibility.
- H – Established partnerships among stakeholders.

Date Prepared:

Table I-9. RAB Advice

FUDS Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G

Mark XX in all columns that apply for each FUDS property.

- A – Scope of studies.
- B – Workplan priorities.
- C – FUDS project priorities.
- D – Relative risk evaluations.
- E – Remedy selections.
- F – Study or cleanup schedule.
- G – Future land use.
- H – Other.

Date Prepared:

APPENDIX J SELECTING DOCUMENTS FOR THE ADMINISTRATIVE RECORD

This appendix indicates all the documents that might possibly be generated at FUDS HTRW and OE projects. Nearly 70 percent of them will not be included in the final Administrative Record. This comprehensive listing is included not only to give the reader an understanding of the universe of documents that are available for inclusion in the final Record but also to provide a guide to selecting those documents that should be included in the final Record.

Key:

✓ = Include in Administrative Record

✱ = Exclude from Administrative Record

Ω = Perhaps include. Some records may be appropriate for inclusion in the Administrative Record; requires a document-by-document review.

1. Site Management Records.

Ω 1.1 Correspondence (see notes 1 and 8)

✓ 1.2 ASRs (including factual supporting historical documents)

Ω 1.3 Scopes of Work/Contractual Documents (see note 14)

Ω 1.4 Site Photographs and Maps

Ω 1.5 Site Descriptions and Chronologies (see note 13)

Ω 1.6 Reference Documents

Ω 1.7 Federal, State, Local Technical Records

✓ 1.8 INPR/Risk Assessment Code
(include final INPRs that have been reviewed and concurred with by agency counsel and when applicable the Confirmation Report for FUDS HTRW projects - do not include Government cost estimates which may be attached to the INPR)

✓ 1.9 SI Documents

✱ 1.10 NDAI Documents at the INPR phase will be excluded since no Administrative Record is compiled for such actions. It should be noted,

however, that NDAI decisions reflected in the Action Memorandum or ROD will be included.

2. Removal Response.

- Ω 2.1 Correspondence (see note 1)
- √ 2.2 Sampling and Analysis Data and Plans (see note 2)
- Ω 2.3 Scopes of Work/Contractual Documents (see note 14)
- Ω 2.4 Work Plans/Site Safety and Health Plans and Progress Reports (see notes 3 and 4)
- ✱ 2.5 Invoices/Contractor Payments/Cost Reports
- Ω 2.6 Interagency Agreements/Memoranda
- Ω 2.7 ARAR Determinations (see note 5)
- ✱ 2.8 Interim Deliverables (see note 7)
- √ 2.9 Chain-of-Custody Forms
- ✱ 2.10 Daily Operations Summary/Situation Reports
- ✱ 2.11 Work Register and Logs
- √ 2.12 Anomaly Review Board Documents (Management Plan, Correspondence, Standing Operating Procedures (SOPs), Findings)
- Ω 2.13 Removal Response Reports (Emergency Evacuation Orders)
- ✱ 2.14 On-Scene Coordinator Reports
- Ω 2.15 EE/CA Approval Memorandum
- √ 2.16 EE/CA
- √ 2.17 EE/CA Action Memorandum

3. Remedial Investigation (RI).

- Ω 3.1 Correspondence (see note 1)

- √ 3.2 Sampling and Analysis Data and Plans (see note 2)
 - Ω 3.3 Scopes of Work/Contractual Documents (see note 14)
 - Ω 3.4 Work Plans and Progress Reports (see notes 3 and 4)
 - * 3.5 Invoices/Contractor Payments/Cost Reports
 - Ω 3.6 Interagency Agreements/Memoranda
 - Ω 3.7 ARAR Determinations (see note 5)
 - * 3.8 Interim Deliverables (see note 7)
 - √ 3.9 Chain-of-Custody Forms
 - √ 3.10 RI Reports
 - √ 3.11 Health and Endangerment Assessments (this includes human health or ecological risk assessments, lead-based paint or asbestos surveys).
4. Feasibility Study (FS).
- Ω 4.1 Correspondence (see note 1)
 - √ 4.2 Sampling and Analysis Data (see note 2)
 - Ω 4.3 Scopes of Work/Contractual Documents (see note 14)
 - Ω 4.4 Work Plans and Progress Reports (see notes 3 and 4)
 - * 4.5 Invoices/Contractor Payments/Cost Reports
 - Ω 4.6 Interagency Agreements/Memoranda
 - Ω 4.7 ARAR Determinations (see note 5)
 - * 4.8 Interim Deliverables (see note 7)
 - √ 4.9 FS Reports (see note 7)

- √ 4.10 Proposed Plans for Remedial Response Action (see note 7)
- 5. Record of Decision (ROD).
 - Ω 5.1 Correspondence (see notes 1 and 8)
 - √ 5.2 Sampling and Analysis Data and Plans (see note 2)
 - Ω 5.3 Scopes of Work/Contractual Documents (see note 14)
 - Ω 5.4 Work Plans and Progress Reports (see notes 3 and 4)
 - ✱ 5.5 Invoices/Contractor Payments/Cost Reports
 - Ω 5.6 Interagency Agreements/Memoranda
 - Ω 5.7 ARAR Determinations (see note 5)
 - √ 5.8 All public notices, comments received, and responses to the comments
 - √ 5.9 ROD (see note 7)
 - √ 5.10 Amendments to ROD
 - √ 5.11 Explanation of Significant Differences
- 6. Remedial Design (RD). (From previous remedial or removal response actions) (see notes 8 and 9)
 - ✱ 6.1 Correspondence
 - ✱ 6.2 Sampling and Analysis Data and Plans
 - ✱ 6.3 Scopes of Work/Contractual Documents
 - ✱ 6.4 Invoices/Contractor Payments/Cost Reports
 - ✱ 6.5 Interagency Agreements/Memoranda
 - Ω 6.6 ARAR Determinations (see note 5)

- ✱ 6.7 Final RD Documents (No cost estimates should be included)
- 7. Remedial Action (RA). (From previous remedial or removal response actions) (see notes 8 and 9)
 - ✱ 7.1 Correspondence
 - ✱ 7.2 Sampling and Analysis Data and Plans
 - ✱ 7.3 Scopes of Work/Contractual Documents
 - ✱ 7.4 Work Plans and Progress Reports
 - ✱ 7.5 Invoices/Contractor Payments/Cost Reports
 - ✱ 7.6 Interagency Agreements/Memoranda
 - ✱ 7.7 ARAR Determinations (see note 5)
 - ✱ 7.8 RA Documents
- 8. Public Affairs/Community Relations.
 - ✓ 8.1 Correspondence (see notes 1 and 8)
 - ✱ 8.2 Mailing Lists
 - Ω 8.3 Scopes of Work/Contractual Documents (see note 14)
 - Ω 8.4 Work Plans and Progress Reports (see notes 3 and 4)
 - ✱ 8.5 Invoices/Contractor Payments/Cost Reports
 - Ω 8.6 CRP (see note 7)
 - Ω 8.7 Briefing Papers (briefing papers may be statements of fact presented to the decision makers which form part of the basis for a decision, or they may be privileged deliberative process information which constitute staff analysis or recommendations, or they may have both types of information.)

Ω 8.8 News Clippings and Press Releases (see note 11)

✱ 8.9 Work Logs

✓ 8.10 Public Meeting Minutes/Transcripts, including minutes of RAB/TRC meetings. (see note 15)

Ω 8.11 Fact Sheets/Newsletters

✓ 8.12 Written Responses to Public Comments/Questions (include all public comments, or information obtained from the public relating to the response action decision, which may include summaries of interviews, correspondence with political subdivisions such as zoning boards, letters from the public, etc.)

✓ 8.13 Public Notices (Availability of Record, Public Comment)

9. Congressional Relations.

Ω 9.1 Correspondence (to include formal Congressionals) (see notes 1, 8, and 12)

Ω 9.2 Briefings

Ω 9.3 Transcripts

Ω 9.4 Testimonies

Ω 9.5 Published Hearings

10. Freedom of Information Act (FOIA).

✱ 10.1 Correspondence

✱ 10.2 Requests

✱ 10.3 Responses

11. Real Estate.

Ω 11.1 Correspondence (see notes 1 and 8)

- Ω 11.2 Rights-of-Entry Documents (may be appropriate for inclusion, e.g., when relevant information is considered in the response action decision process)
- Ω 11.3 Title Search Documents (see note 10)
- Ω 11.4 Land Grants/Deeds
- Ω 11.5 Interagency Agreements/Memoranda (may be appropriate for inclusion, e.g., when relevant information is considered in the response action decision process)
- √ 11.6 Final approved Findings and Determinations

Notes

The following notes are referenced in Selecting Documents for the Administrative Record. Only documents containing factual data relevant to the selection of the response action on the FUDS property should be included in the Administrative Record.

1. Internal correspondence should generally be excluded from the Administrative Record. However, if these records contain facts that are not available elsewhere, they should be included in the Administrative Record. Also, all Government attorney correspondence should be excluded from the Administrative Record as well as privileged documents. This material includes formal letters, meeting notes, and telephone notes.
2. Sampling and analysis data must be included in the Administrative Record. When it is available, validated data should be used. In order to limit the physical size of Administrative Records, sampling and analysis data may be included in the Record by referencing the data in the Record's Index.
3. Only the final version of a work plan and any subsequent revisions/modifications need to be included in the Administrative Record.
4. Only progress reports that provide factual information related to a selection of a response action must be included in the Administrative Record.
5. ARAR information which is directly related to decisions made at the FUDS project must be included in the Administrative Record. Correspondence between attorneys and/or FUDS project team members relating to ARARs should be excluded from the Administrative Record.
6. Certain documents may need to be added to the Administrative Record after the Action Memorandum is signed. These documents would be added to the Administrative Record if they are relevant to a follow-up action or if the Action Memorandum is amended.
7. All relevant draft documents (e.g., EE/CA, RI/FS, ROD, CRP) that are made available to the public and upon which the Government received comments should be included in the Administrative Record. Draft documents which contain factual information that does not appear in the final document or is included in other documents, and upon which the Government based a portion of its response action decision (even if the document was not released to the public) must be included in the Administrative Record.
8. Documents generated after the Action Memorandum or the ROD are final are usually not included in the Administrative Record. However, if there are multiple areas within a FUDS property, some documents generated after one Action Memorandum or ROD may be included in the Administrative Record if it is related to how the Government made a decision for another

ROD at the FUDS property. These documents should be included in the FUDS project Record file at the district.

9. RD and RA documents are usually excluded from the Administrative Record. However, if there are multiple RDs and RAs, documents from previous RDs and RAs may be included in the Administrative Record to support follow-up response actions. In addition, if there is an amendment to the ROD, additional RD and RA documents may be added to the Administrative Record. These documents should be included in the FUDS project Record file at the district.

10. Title search records may be excluded from the Administrative Record if they do not contain information relevant to selection of a response action. Since title search records may be considered confidential, they may be cited in the Index and excluded from the physical Administrative Record, i.e., inclusion by reference only.

11. USACE press releases are included in the Administrative Record. General newspaper clippings are excluded from the Administrative Record (unless they served as the basis for a response action).

12. Comments received from members of Congress on draft documents (e.g., EE/CA, RI, FS, Proposed Plan, ROD, CRP) must be included in the Administrative Record.

13. Site descriptions and chronologies may be included in the Administrative Record if they reflect official agency positions. They are not to be included if they were prepared as the FUDS project team's working papers.

14. The final scopes of work, including any modifications, should be included. Most other contract file documents are not relevant. See paragraph 4-11b regarding contracting financial information, the Government deliberative process, or Government estimating records.

15. Include recommendations or significant information provided by any RAB or TRC which relates to a response action decision. Also include the documents that were developed to establish the RAB or TRC, correspondence reflecting any changes in the RAB or TRC membership, and the minutes of any meeting between the RAB or TRC and the agency decision-making official.

APPENDIX K MODEL FUDS PROJECT FILE STRUCTURE

This file structure is included to provide an organizational framework for an entire FUDS HTRW or OE project file. Only 30 percent or less of the documents listed below will ultimately comprise the Administrative Record. The numbering system employed here is consistently used throughout appendices J through S of this EP and can be further seen in the development of the Administrative Record document-numbering system and the arrangement of the Administrative Record Table of Contents (appendix N).

1. Site Management Records.

- 1.1 Correspondence
- 1.2 ASRs
- 1.3 Scopes of Work/Contractual Documents
- 1.4 Site Photographs and Maps
- 1.5 Site Descriptions and Chronologies (see note 13)
- 1.6 Reference Documents
- 1.7 Federal, State, Local Technical Records
- 1.8 INPR
- 1.9 SI Documents
- 1.10 NDAI Determinations

2. Removal Response.

- 2.1 Correspondence
- 2.2 Sampling and Analysis Data and Plans
- 2.3 Scopes of Work/Contractual Documents
- 2.4 Work Plans/Site Safety and Health Plans and Progress Reports
- 2.5 Invoices/Contractor Payments/Cost Reports
- 2.6 Interagency Agreements/Memoranda
- 2.7 ARAR Determinations
- 2.8 Interim Deliverables
- 2.9 Chain-of-Custody Forms
- 2.10 Daily Operations Summary/Situation Reports
- 2.11 Work Register and Logs
- 2.12 Anomaly Review Board Documents (Management Plan/Correspondence/SOPs/Findings)
- 2.13 Removal Response Reports (Emergency Evacuation Orders)
- 2.14 On-Scene Coordinator Reports

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2.15 EE/CA Approval Memorandum

2.16 EE/CA

2.17 EE/CA Action Memorandum

3. Remedial Investigation (RI).

3.1 Correspondence

3.2 Sampling and Analysis Data and Plans

3.3 Scopes of Work/Contractual Documents

3.4 Work Plans and Progress Reports

3.5 Invoices/Contractor Payments/Cost Reports

3.6 Interagency Agreements/Memoranda

3.7 ARAR Determinations

3.8 Interim Deliverables

3.9 Chain-of-Custody Forms

3.10 RI Reports

3.11 Health and Endangerment Assessments (including lead-based paint and asbestos surveys)

4. Feasibility Study (FS).

4.1 Correspondence

4.2 Sampling and Analysis Data and Plans

4.3 Scopes of Work/Contractual Documents

4.4 Work Plans and Progress Reports

4.5 Invoices/Contractor Payments/Cost Reports

4.6 Interagency Agreements/Memoranda

4.7 ARAR Determinations

4.8 Interim Deliverables

4.9 FS Reports

4.10 Proposed Plans for RA

5. Record of Decision (ROD).

5.1 Correspondence

5.2 Sampling and Analysis Data and Plans

5.3 Scopes of Work/Contractual Documents

5.4 Work Plans and Progress Reports

5.5 Invoices/Contractor Payments/Cost Reports

5.6 Interagency Agreements/Memoranda

5.7 ARAR Determinations

5.8 All Public Notices, Comments Received, and Responses to the
Comments

5.9 ROD

5.10 Amendments to ROD

5.11 Explanation of Significant Differences

6. Remedial Design (RD).

6.1 Correspondence

6.2 Sampling and Analysis Data and Plans

6.3 Scopes of Work/Contractual Documents

6.4 Invoices/Contractor Payments/Cost Reports

6.5 Interagency Agreements/Memoranda

6.6 ARAR Determinations

6.7 RD Documents

7. Remedial Action (RA).

7.1 Correspondence

7.2 Sampling and Analysis Data and Plans

7.3 Scopes of Work/Contractual Documents

7.4 Work Plans and Progress Reports

7.5 Invoices/Contractor Payments/Cost Reports

7.6 Interagency Agreements/Memoranda

7.7 ARAR Determinations

7.8 RA Documents

8. Public Affairs/Community Relations.

8.1 Correspondence

8.2 Mailing Lists

8.3 Scopes of Work/Contractual Documents

8.4 Work Plans and Progress Reports

8.5 Invoices/Contractor Payments/Cost Reports

8.6 CRP

8.7 Briefing Papers

8.8 News Clippings and Press Releases

8.9 Work Logs

8.10 Public Meeting Minutes/Transcripts/RAB and TRC Meeting Minutes

8.11 Fact Sheets/Newsletters

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8.12 Written Responses to Public Comments/Questions

8.13 Public Notices (Availability of Record, Public Comment)

9. Congressional Relations.

9.1 Correspondence (to include formal Congressionals)

9.2 Briefings

9.3 Transcripts

9.4 Testimonies

9.5 Published Hearings

10. Freedom of Information Act (FOIA).

10.1 Correspondence

10.2 Requests

10.3 Responses

11. Real Estate.

11.1 Correspondence

11.2 Rights-of-Entry Documents

11.3 Title Search Documents

11.4 Land Grants/Deeds

11.5 Interagency Agreements/Memoranda

11.6 Findings and Determinations

NOTE: Where appropriate, documents may be retained by the Office of Counsel as the attorney's working file. All other documentation relating to legal issues that is not privileged or confidential will be retained in the FUDS project file within the major file subdivision to which it pertains. For example, documents generated by the legal office regarding rights-of-entry issues will be retained under 11 for Real Estate and, specifically, 11.2 for Rights-of-Entry Documents. Within the appropriate subdivisions, include all correspondence to and from agency counsel and other agency staff on the FUDS project team, all legal demands or claims and documents relating to processing them, all documents involving any litigation, all documents prepared to assist agency counsel or the Department of Justice in representing the agency on pending or potential legal disputes, and any other documents which are related to legal issues. Privileged or confidential documents will be maintained either in the Office of Counsel or with the remainder of the FUDS project file in a privileged and confidential section of the file. Each document in this portion of the file, as well as the divider or file marker for this section, will be marked as privileged and confidential. These marked documents will not be released outside the agency or included in the Administrative Record without the approval of the Office of Counsel.

APPENDIX L ADMINISTRATIVE RECORD DOCUMENTS

The documents listed below will be included in the final Administrative Record. Since those documents marked with a "U" in appendix J may be added after a review by appropriate offices, they are not included here. This listing is based on the arrangement of the Model FUDS Project File Structure presented as appendix K.

1. Site Management Records.

- 1.2 ASRs
- 1.8 INPR
- 1.9 SI Documents
- 1.10 NDAI Determinations documented in the Action Memorandum or ROD

2. Removal Response.

- 2.2 Sampling and Analysis Data and Plans
- 2.9 Chain-of-Custody Forms
- 2.12 Anomaly Review Board Documents (Management Plan/Correspondence/SOPs/Findings)
- 2.16 EE/CA
- 2.17 EE/CA Action Memorandum

3. Remedial Investigation (RI).

- 3.2 Sampling and Analysis Data and Plans
- 3.9 Chain-of-Custody Forms
- 3.10 RI Reports
- 3.11 Health and Endangerment Assessments (this includes human health or ecological risk assessments)

4. Feasibility Study (FS).

- 4.2 Sampling and Analysis Data and Plans
- 4.9 FS Reports
- 4.10 Proposed Plans for RA

5. Record of Decision (ROD).

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5.8 All Public Notices, Comments Received, and Responses to the
Comments

5.9 ROD

5.10 Amendments to ROD

5.11 Explanation of Significant Differences

6. Remedial Design (RD). None unless notes 5, 8, or 9 apply

7. Remedial Action (RA). None unless notes 5, 8, or 9 apply

8. Public Affairs/Community Relations.

8.1 Correspondence

8.10 Public Meeting Minutes/Transcripts, including RAB/TRC meeting
minutes and other documents which relate to a response action decision

8.12 Written Responses to Public Comments/Questions

8.13 Public Notices (Availability of Record, Public Comment)

9. Congressional Relations. None unless determined that they provide factual information
related to the selection of a response action

10. Freedom of Information Act (FOIA). None

11. Real Estate.

11.6 Final approved Findings and Determinations

APPENDIX M
MODEL ADMINISTRATIVE RECORD INDEX

The Administrative Record Index will be divided into several indices arranged by the access points indicated below. By knowing only one piece of information about the document being sought, such as the author, a person will be able to find that document in its volume of the Record. Each Index should include on the top of each page the FUDS property name, date of the Index, and type of organizing identifier, e.g., author, date, etc., for that Index.

Key Words (found in the title of each document or piece of correspondence)

Authors (authors of documents sent and received)

Affiliation (of authors of sent documents)

Date (provides for a chronological listing of all documents)

MARKS number

Volume number (volume of binder in which the document is maintained)

APPENDIX N MODEL ADMINISTRATIVE RECORD TABLE OF CONTENTS

This model Table of Contents shows how a typical Administrative Record would be organized and arranged. The numbering system used is extracted from the numbering system described in appendix L, Model FUDS Project File Structure. Since only a small portion, 30 percent or less, of all FUDS HTRW or OE project documents comprise the Administrative Record, this listing is considerably smaller than that described in appendix K. The number of volumes per division (in this case, volume I contains all documents in 1 Site Management) will depend on the number of pages of each document. In reality, documents in division 1 may require more than one binder. If that is the case, the number of volumes would be expanded. This is a guide to show how a Table of Contents for an Administrative Record should be arranged.

Volume 1

- 1.2 ASRs
- 1.4 Site Photographs and Maps
- 1.8 INPR

Volume 2

- 2.1 Correspondence
- 2.2 Sampling and Analysis Data and Plans

Volume 3

- 2.4 Work Plans/Site Safety and Health Plans and Progress Reports

Volume 4

- 2.8 Interim Deliverables

Volume 5

- 2.12 Anomaly Review Board Findings
- 2.15 EE/CA Approval Memorandum

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Volume 6

2.16 EE/CA

2.17 EE/CA Action Memorandum

Volume 7

3.2 Sampling and Analysis Data and Plans

3.7 ARAR Determinations

Volume 8

3.10 RI Reports

Volume 9

3.11 Health and Endangerment Assessments

Volume 10

4.9 FS Reports

4.10 Proposed Plans for RA

Volume 11

5.8 All Public Notices, Comments Received, and Responses to the Comments

5.9 ROD

5.10 Amendments to ROD

5.11 Explanation of Significant Differences

Volume 12

8.1 Correspondence

8.6 CRP

8.8 News Clippings and Press Releases

8.10 Public Meeting Minutes/Transcripts, including RAB/TRC meeting minutes
and other documents which relate to a response action decision.

Volume 13

- 9.1 Correspondence
- 9.4 Testimonies

Volume 14

- 11.6 Findings and Determinations

APPENDIX O
MODEL ADMINISTRATIVE RECORD DATA ELEMENT DEFINITION INDEX

Doc No.	Unique no. assigned to each document based on file structure numbering system
Vol	Volume number of the binder in which the hard copy of the document is contained
Title	Title of the document
Date	The date the document was published by or released from the issuing office or agency
Author	Author of document sent or received
Affiliation	Agency, office, or corporate entity of author
Pages	Total number of printed pages of document, including any attachments
MARKS No.	File no. from AR 25-400-2, Modern Army Recordkeeping System
Doc Type	Indicates type of document, e.g., correspondence, report, plan, memorandum, etc.

APPENDIX P
MODEL ADMINISTRATIVE RECORD TRANSMITTAL COVER LETTER

(Name of Contact)
(Address)

Dear (Name of Contact):

The U.S. Army Corps of Engineers is required by law to establish Administrative Records for certain environmental restoration projects and to maintain one copy of such Records "at or near" the environmental restoration project at issue. The attached Administrative Record consists of information upon which the Government bases its selection of response action for the (name of FUDS property).

By providing the public with greater access to these Records, it is our hope that the public will be better equipped to comment constructively on FUDS project activities and to understand the issues relating to the selection of the response action at the FUDS property.

We appreciate having the (name of local repository) as the designated Administrative Record facility for the (name of FUDS property). The enclosed Record file, along with any future documents relating to technical activities at the FUDS project, will be placed in the (name of local repository) and be available for public review. The Record file should be treated as a noncirculating reference - it should not be removed from your facility.

Also enclosed is a fact sheet to assist you and your staff in answering questions posed by the public concerning Administrative Records for selection of response actions at FUDS projects. Please feel free to distribute this guide to the public.

To ensure the receipt of the Administrative Record, I would appreciate your completion of the attached Document Transmittal Acknowledgment form. Please return this form in the enclosed self-addressed, stamped envelope.

Again, I would like to thank you for your cooperation with the U.S. Army Corps of Engineers in serving as a field repository. If you have any questions or comments, please contact (name of contact) at (phone no.).

Sincerely,

(Name)
Administrative Record Coordinator
(Signature is subject to local procedures.)

APPENDIX Q
MODEL ADMINISTRATIVE RECORD DOCUMENT TRANSMITTAL
ACKNOWLEDGMENT

FROM: (Office Address)

TO: (Field Repository Address)

I acknowledge that I have received the following documents from the U.S. Army Corps of Engineers, (district office/field office), pertaining to (FUDS property name).

Administrative Record Name _____

Administrative Record Volume Numbers _____

Signed _____

Date _____

Please return this form to: (District Office/Field Office Address)

APPENDIX R
SAMPLE ADMINISTRATIVE RECORD
FACT SHEET

Administrative Records in Local Repositories

The Administrative Record is the collection of documents which forms the basis for the selection of a response action at a FUDS environmental restoration project. Under section 113 (k) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendment and Reauthorization Act (SARA), 42 USC 9601 et. seq., the U.S. Army Corps of Engineers is required to establish an Administrative Record for every remedial or removal response action and to make a copy of the Administrative Record file available at or near the FUDS project.

The Administrative Record file must be reasonably available for public review during normal business hours. The Record file should be treated as a noncirculating reference document. This will allow the public greater access to the volumes and minimize the risk of loss or damage. Individuals may photocopy any documents contained in the Record file, according to the photocopying procedures at the local information repository.

The documents in the Administrative Record may become damaged or lost during use. If this occurs, the local repository manager should contact the Corps of Engineers district or field office for replacements. Documents may be added to the Record file as the FUDS project work progresses. Periodically, the Corps of Engineers may send supplemental volumes and indexes directly to the local repository. These supplements should be placed with the initial Record file materials.

The Administrative Record file will be maintained at the local repository until further notice. Questions regarding the maintenance of the Record file should be directed to the local Corps office.

The Corps welcomes comments at any time on documents contained in the Administrative Record file. Please send any such comments to (name of contact). The Corps will hold formal public comment periods at certain stages of the response process. The public is urged to use these formal review periods to submit their comments. The public will be advised through the local news media of these formal review periods.

For further information on the Administrative Record, contact (name and phone number of ARC).

APPENDIX S
MODEL ADMINISTRATIVE RECORD NOTICE OF PUBLIC AVAILABILITY

THE U.S. ARMY CORPS OF ENGINEERS
ANNOUNCES THE AVAILABILITY OF THE
ADMINISTRATIVE RECORD
(NAME OF FUDS PROPERTY, LOCALITY, STATE)

The U.S. Army Corps of Engineers announces the availability for public review of files comprising the Administrative Record for the selection of the (remedial, removal) response action at the (name of FUDS property, locality, state). The Corps seeks to inform the public of the availability of the Record at this repository and at the district office and to encourage the public to comment on documents as they are placed into the Record file.

The Administrative Record includes documents which form the basis for the selection of a (remedial, removal) response action at this FUDS project. Documents now in the Record files include (PAE and SI reports, validated sampling data, RI/FS or EE/CA work plan, and the CRP).

Other documents will be added to the Record files as the FUDS project work progresses. These additional documents may include, but are not limited to, the RI/FS report, the Proposed Plan, the EE/CA, other technical reports, additional validated sampling data, comments and new data submitted by interested persons, and Corps responses to significant comments.

The Administrative Record is available for review during normal business hours at:
(information repository name, address, and phone number and Corps of Engineers district office name, address, and phone number and the room number for its public access reading room)

Additional information is available at the following location(s):
(name, address, phone number)

Written comments on the Administrative Record should be sent to:
(name, address, phone number)

GLOSSARY

ACSIM	Assistant Chief of Staff for Installation Management
AR	Army Regulation
ARAR.....	Applicable or Relevant and Appropriate Requirement
ARC	Administrative Record Coordinator
ASA (I,L&E)	Assistant Secretary of the Army (Installations, Logistics and Environment)
ASR.....	Archives Search Report
ATSDR.....	Agency for Toxic Substances and Disease Registry
BRAC.....	Base Realignment and Closure
CEERIS	Corps of Engineers Electronic Recordkeeping Information System
CEEDMS.....	Corps of Engineers Electronic Document Management System
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
COR	Contracting Officer's Representative
CRP	Community Relations Plan
DA.....	Department of the Army
DASA (ESOH)	Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health)
DEP	Department of Environmental Protection
DERP	Defense Environmental Restoration Program
DOD	Department of Defense
DUSD (ES).....	Deputy Under Secretary of Defense (Environmental Security)
EE/CA	Engineering Evaluation/Cost Analysis
EPA	Environmental Protection Agency
ETL	Engineer Technical Letter
FACA	Federal Advisory Committee Act
FAR.....	Federal Acquisition Regulation
FFERDC.....	Federal Facilities Environmental Restoration Dialogue Committee
FOIA	Freedom of Information Act
FOUO.....	For Official Use Only
FR.....	Federal Register
FS	Feasibility Study
FUDS	Formerly Used Defense Sites
FY	Fiscal Year
HQUSACE	Headquarters, U.S. Army Corps of Engineers
HTRW	Hazardous, Toxic, and Radioactive Waste
IAW.....	In Accordance With
INPR	Inventory Project Report

IRDMIS.....	Installation Restoration Data Management Information System
IRIS	Installation Restoration Information System
MARKS.....	Modern Army Recordkeeping System
MCX.....	Mandatory Center of Expertise
MFR	Memorandum for Record
MSC	Major Subordinate Command
NCP.....	National Oil and Hazardous Substances Pollution Contingency Plan
NDAA	National Defense Authorization Act
NDAI.....	No DOD Action Indicated
NPL.....	National Priorities List
ODEP	Office of the Director of Environmental Programs
OE	Ordnance and Explosives
OMB.....	Office of Management and Budget
PAE	Preliminary Assessment of Eligibility
PAO.....	Public Affairs Office
PIRP	Public Involvement Response Plan
PL.....	Public Law
PM.....	Project Manager
POC.....	Point of Contact
PRP	Potentially Responsible Party
RA	Remedial Action
RAB	Restoration Advisory Board
RD.....	Remedial Design
RD/RA.....	Remedial Design/Remedial Action
RI	Remedial Investigation
RI/FS	Remedial Investigation/Feasibility Study
ROD	Record of Decision
SAP	Simplified Acquisition Procedures
SARA	Superfund Amendment and Reauthorization Act
SI.....	Site Investigation/Inspection
SOP	Standing Operating Procedure
SOW.....	Statement of Work
Stat	United States Statutes at Large
TAG	Technical Assistance Grant
TAPP.....	Technical Assistance for Public Participation
TCRA	Time-Critical Removal Action
TLM	Technical Liaison Manager
TOSC	Technical Outreach Services to Communities
TPS.....	Third Party Site
TRC.....	Technical Review Committee
USACE.....	U.S. Army Corps of Engineers

USACHPPM..... U.S. Army Center for Health Promotion and Preventive Medicine
USAEC..... U.S. Army Environmental Center
USAESCH..... U.S. Army Engineering and Support Center, Huntsville
USC..... United States Code